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1992

AGREEMENT

MONTANA/ENVIRONMENTAL PROTECTION AGENCY

COOPERATIVE AGREEMENT

Agreement between the Management and Administration

of Montana's Environmental Programs

July 1991 - June 1992

June 1991

Approved:

The undersigned hereby execute this cooperative agreement on the management and administration of Montana's Fiscal Year (FY) 1992 Water Pollution Control, Safe Drinking Water, Underground Injection Control, Air Quality, Solid and Hazardous Waste Management, Superfund, Pesticides and Toxics Programs. The enforcement agreements have been included as an integral component of this cooperative agreement.

STATE OF MONTANA

Stan Stephens
Governor, State of Montana

10/2/91
Date

Dennis Iverson, Director
Department of Health and
Environmental Sciences

9/20/91
Date

Everett Snortland, Director
Department of Agriculture

9-24-91
Date

ENVIRONMENTAL PROTECTION AGENCY

James J. Scherer
Regional Administrator

10-8-91
Date

John F. Wardell, Director
Montana Office

9-18-91
Date

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EXECUTIVE SUMMARY

INTRODUCTION

The goal of Montana's environmental health programs is to protect public health while sustaining a spirit of cooperation between environmental protection and resource development. Accomplishing this requires close coordination between the Departments of Health and Environmental Sciences (DHES) and Agriculture (MDA) for the state, and the federal government's Environmental Protection Agency (EPA).

Through agreements, research, monitoring, technical expertise and other areas of cooperation, the DHES, MDA and EPA are helping Montanans maintain a quality lifestyle. The Montana/EPA Agreement (MEA) contributes to this process by consolidating all narratives, work plans and enforcement agreements, thus producing a concise document and reducing paperwork and duplication of effort.

The MEA programs are comprised of the MDA's pesticide program, the DHES's air, water and solid and hazardous waste programs, and the EPA's toxics and underground injection control programs.

The elements of the MEA include: (1) An overview of the state's environment, (2) identification of priority objectives, (3) strategies to accomplish priorities, (4) detailed work plans, activities and commitments and (5) cooperative enforcement agreements.

To better understand the programs, and what they plan to accomplish, each major area of environmental concern has a narrative discussion of its programs, followed by media work plans defining the proposed work.

HIGHEST PRIORITY OBJECTIVES

The State of Montana and the EPA Montana Office reviewed the environmental programs and established the following "highest priority objectives." Although these objectives have been singled out as primary goals for the July 1991 - June 1992 time frame, the individual programs have many additional important goals that also must be addressed during this period. The highest priority objectives include:

1. Continue multi-media efforts to correct environmental and public health problems in the Clark Fork River drainage.

2. Implement the recommendations of the Montana Public Water Supply Task Force.

3. Implement RCRA Facility Management Plans at sites in the state. These plans are being implemented at 10 facilities:

   Exxon (Billings)
   Conoco Refinery and Landfarm (2) (Billings)
   BN (Somers)
   BN (Paradise)
   Cenex (Laurel)
   Transbas (Billings)
   Montana Refining (Great Falls)
   Flying J Refinery (Cut Bank)
   Montana State University (MSU) (Bozeman)
   Malmstrom Air Force Base (Great Falls)

4. Implement the underground storage tanks program to correct environmental and public health concerns caused by leaking underground storage tanks in Montana.

5. Implement activities under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) to correct public health and environmental problems at Superfund Program hazardous wastes sites in Montana. These sites are:

   Anaconda Smelter (Anaconda)
   Silver Bow Creek (Butte area and Clark Fork between Warm Springs Ponds and Missoula)
   Milltown Reservoir (Milltown near Missoula)
   East Helena (East Helena)
   Libby Groundwater (Libby)
   BN Site (Somers)
   Montana Pole Tie-treatment Facility (Butte)
   Idaho Pole Treatment Facility (Bozeman)

6. Continue to support the commitment to protect water quality in Flathead Lake.

7. Implement approved portions of the nonpoint source pollution control program. Nonpoint contamination of lakes and streams is a serious problem in Montana.

8. Develop, implement and track state implementation plans (SIP) for areas exceeding National Ambient Air Quality Standards which include:

   a. Ten-micron particulate (PM-10) for Butte, Missoula, Kalispell, Libby, Columbia Falls and Thompson Falls,

   b. Lead for East Helena,

   c. Carbon Monoxide (CO2) for Missoula, Great Falls and Billings and

   d. Sulfur dioxide (SO2) for Laurel and East Helena.

9. Prioritize groundwater remediation activities to minimize the risk of human exposure and then proceed to restore groundwater aquifers to current and reasonably anticipated beneficial uses.

10. Begin implementation of the EPA Groundwater Protection Program, Worker Protection Program and Endangered Species Protection Program as part of the state's Pesticide Program activities. Also continue to upgrade the pesticides Enforcement and Certification Programs.

ECOSYSTEMS MANAGEMENT SECTION

Emphasis will continue in FY 1992 on control of nonpoint sources (NPS) of pollution, which account for over 90 percent of the documented water quality problems in Montana. Section 319 of the Federal Clean Water Act establishes a national plan for controlling nonpoint source pollution and a system to share the state and local costs of implementing controls. To be eligible for federal implementation funds, Montana prepared and submitted to EPA in 1988, a Nonpoint Source Assessment Report and a Nonpoint Source Management Program. The management program was updated in 1991.

Montana gained full approval of its Nonpoint Source Assessment Report and Management Program. The Montana Management Program is intended to be a coordinated, comprehensive, multi-agency approach to NPS control with DHES the lead agency. The goal is to achieve, through education, financial incentives, and other means, universal application of best management practices (BMPs) for those source categories that substantially impair or threaten to impair beneficial uses of Montana waters. The significant source categories for Montana are agriculture, forest practices, and resource extraction.

In FY 1992, the state will continue to implement its fully approved Nonpoint Source Management Program, target additional waterbodies for implementation, set milestones for controls and pursue nonfederal sources of funding to meet the 40 percent nonfederal match requirement. The state received about $1,000,000 in grants from the EPA to begin implementing its fully approved Management Program in FY 1991. Another $688,000 will be available in FY 1992.

Monitoring of the Clark Fork River will continue as the major element of the Water Quality Management Program in FY 1992. Flows, nutrients, metals, suspended solids and other variables will be measured at about 30 sites, 16 times during the year. Macroinvertebrates and periphyton will be collected once in August at 20 sites. Also in FY 1992, the state will complete the Clark Fork/Lake Pend Oreille water quality assessment requested by Congress under Section 525 of the Clean Water Act.

The state will continue to fund monitoring of Flathead Lake and tributaries by the University of Montana Biological Station as part of the Master Plan for monitoring surface water quality in the Flathead Basin. In addition, the state will initiate a Phase I Diagnostic and Feasibility Study of Flathead Lake under the national Clean Lakes Program.

Monitoring personnel will conduct more bioassessments on least-impaired reference streams to better establish baseline biocriteria for comparison with NPS Program demonstration project streams. Additionally, waterbody assessments and development of the 305(b) Waterbody Tracking System for Montana will continue, as well as participation in the Soil Conservation Service (SCS) cooperative River Basin Study, the Forest Practices Cumulative Effective Cooperative, the Forestry Stewardship Program, and the Flathead Basin Forest Practices/Water Quality and Fisheries Management Cooperative. The state will also provide pass-through funds to conservation districts for water quality assessment and planning activities.

Section staff will continue to provide the following services:

- Process 3 (a) authorizations, feedlot permits and (401) certifications,
- Provide bioassay, bioassessment, and biomonitoring support,
- Conduct complaint investigations,
- Provide quality assurance and data management support,
- Review forest management activities,
- Provide assessment and planning assistance to Conservation Districts,
- Provide information on and interpretations of water quality conditions and water quality laws, regulations, policies and programs,
- Prepare the 1992 305(b) water quality assessment report,
- Publish the Water Column newsletter, and
- Administer the Nonpoint Source Pollution Management Program.

WATER POLLUTION CONTROL

The water pollution control activities of the Water Quality Bureau (WQB) provide for the general protection of water quality in Montana. These activities include the Special Studies and Support Section, the Enforcement Program, and the Waste Water Permit Program.

SPECIAL STUDIES AND SUPPORT SECTION

This section will continue to provide storage and retrieval of water quality data, review and revise water quality standards, review major projects which may affect water quality, determine whether a project will cause degradation and follow through on the nondegradation appeal process, issue short term authorizations to exceed water quality standards, issue 401 certifications, and help to investigate alleged violations of water quality laws.

ENFORCEMENT PROGRAM

This program will continue to provide enforcement support to all sections of the bureau, with emphasis on investigating complaints and when warranted, initiating enforcement actions which may range from enforcement letters to filing of civil complaints. At the present time about 200 complaints are received and investigated each year. From these and other enforcement referrals, such as the MPDES permit program and MGWPCS permit program, about 15 formal enforcement actions are instituted per year. There are currently about 65 active formal enforcement cases.

WASTEWATER DISCHARGE PERMIT PROGRAM

Montana's Wastewater Surface Discharge Permit Program began in 1968. With passage of Public Law (PL) 92-500 (Water Pollution Control Amendments of 1972), a federal Wastewater Discharge Permit Program was also created. In 1974 Montana applied for and received authority from the EPA to administer this program, thus minimizing a duplication of effort.

Tables #1 and #2 list the various categories of major and minor industrial wastewater discharges. Table #3 lists the number of facilities that presently have general wastewater discharge permits.

Table #4 lists the municipal discharges. Table #5 lists the major permits to be issued by June 30, 1992. All of Montana's 26 major municipalities have treatment facilities capable of meeting secondary effluent limitations. Major and minor wastewater treatment facilities are tracked for compliance, utilizing the PCS database system.

Some of the communities meeting secondary discharge limitations still have treatment facility needs. A few of the facilities are approaching the design limits of their systems. Others need nutrient or ammonia removal. Industrial facilities are continually adding or changing processes, necessitating modifications in their wastewater discharge permits. These permits are constantly in a state of review and/or revision, providing a never-ending challenge to the program staff.

New federal requirements are being inserted in many of the major permits. These include biomonitoring requirements, pretreatment requirements and sludge disposal requirements. All of these programs involve more intensive monitoring of the permittees' discharges and sludges. More extensive record keeping, reporting, and compliance tracking are then required.

Stormwater permit application regulations were promulgated by the EPA in November 1990, and the Permits Program is being developed by potential applicants. The program has applied for a 104(b)(3) grant to assist in implementing the stormwater

regulations. Also, mostly as a result of increased resource needs due to the above-mentioned newly imposed federal requirements along with a projected decline in federal funding, the program plans to work toward legislation which will allow for permit fees to help support the program.

Table 1. MAJOR INDUSTRIAL WASTEWATER DISCHARGE PERMITTEES

Category	Total No.
Sugar Refining	2
Coal Mines	3
Smelter	1
Plywood Mills	2
Oil Refineries	5
Paper Mill	1
Generating Plants	2
Ore Mining	2
Railroad	1
Totals	19

Table 2. MINOR INDUSTRIAL WASTEWATER PERMITTEES

Category	Total No.
Oil Wells	16
Mines	66
Smelter	1
Railroads	4
Lumber & Plywood Mill	1
Sand & Gravel	7
Slaughter Plants	2
Cement Plants	2
Chemical Plants	3
Generating Plant	1
Industrial Sewage Treatment Plants	4
Miscellaneous	31
Totals	138

Table 3. GENERAL PERMIT SURVEY

General Permit Category	Effective Date of General Permit	Authorizations Issued Total	Currently Active
Suction Dredge*	5/21/87	186	28
Fish Farm	2/ 1/90	30	13
Construction Dewatering	4/ 3/87	171	25
Sewage Lagoon	7/ 1/88	53	28
Feed Lot	7/ 1/89	41 (large)	30 (large)
		43 (small)	24 (small)
Produced Water	4/1/90	8	8
	Totals	532	156

*Considered by the EPA to be issued under 404 rather than 402 authority.

Table 4. MUNICIPAL WASTEWATER DISCHARGES WITH INDIVIDUAL MONTANA POLLUTION DISCHARGE ELIMINATION SYSTEM (MPDES) PERMITS

	Major	Minor
Wastewater Treatment Facilities Municipal, State & Federal	26	65
Municipal Water Treatment Facilities/ Wastewater Disposal	--	11
Totals	26	76

Table 5. MAJOR PERMITS TO BE ISSUED, 1991-1992.

Major Industrial	Major Municipal
Western Sugar - Billings	Livingston
West Decker Coal - Decker	
Stone Container Corp.	

Specific priorities for FY 1992 include:

- Issue, reissue or modify major permits ensuring that water quality standards are met; toxic criteria limitations, effluent toxicity testing, pretreatment requirements and sludge handling requirements are imposed, and appropriate effluent limitations and self-monitoring are provided,
- Reissue approximately 50 minor permits and issue new minor permits as required,
- Provide timely complaint and spill response and follow-up,
- Provide compliance monitoring annually for all major permittees, completing Form EPA-3560-3 for each and entering data into Permits Compliance System (PCS),
- Compliance monitor minor dischargers where self-monitoring data is suspect,
- Continue the quality assurance (QA) program to assure accurate self-monitoring data for the MPDES program,
- Provide appropriate enforcement and report to the EPA, giving priority to major dischargers and federally-funded minor municipalities,
- Provide timely review and appropriate notification on self-monitoring information. Enter Discharge Monitoring Report(DMR) data into PCS on a timely basis,
- Review program goals,
- Develop support for adequate resources to implement the program and develop legislation to enable assessment of permit fees, and
- If approved, utilized 104(b)(3) grant funding to begin implementation of new stormwater regulations.

MONTANA GROUNDWATER PROGRAM

Groundwater Program work activities have expanded into the development and implementation of groundwater pollution prevention programs. Specifically in the area of pesticides in the Groundwater Program and the Wellhead Protection Program. Administrative duties expand as the Groundwater Program grows. The 52nd Legislature provided the department with approval and funding for three additional FTES; two FTEs to assist with permit processing and compliance, 1/2 FTE to develop water quality districts and 1/2 FTE for secretarial support.

The Montana Agricultural Chemical Groundwater Protection Act requires modification of the Montana Groundwater Pollution Control System (MGWPCS) groundwater standards. The act also requires cooperation with the Department of Agriculture for the development and review of a statewide general pesticide management plan. Development and implementation of a Wellhead Protection Program is needed to prevent contamination problems at Public Water Supply (PWS) systems across Montana. Wellhead activities will focus on establishment of a wellhead advisory

committee development of delineation criteria and drafting of a wellhead work plan.

Existing duties related to MGWPCS permits continue for the program. New permits for fuel-contaminated contaminates soils are being processed. Work with the Department of State Lands (DSL) on large mining and milling operations continues under a Memorandum of Agreement (MOA) between the DSL and the DHES. Investigation and oversight of numerous small and some large groundwater contamination problems are handled by the groundwater program staff. Coordination with the department's waste regulatory programs is also necessary to ensure compliance at these sites. Staff continue to investigate and respond to citizen complaints and inquiries related to groundwater and to provide hydrogeologic expertise to other bureau programs.

DRINKING WATER

The first Montana Public Water Supply law was enacted in 1907. This law as revised in 1977, and again in 1991, to enable Montana to receive and retain delegation for the administration of the "Federal Safe Drinking Water Act" (PL 93-523). The 1991 Legislation allows the DHES to:

- Develop a fee schedule to enable them to recover costs in administering the drinking water law, i.e., develop a per connection fee ($2.25) for all public water systems to support the state drinking water program,

- To develop fees to pay for the costs of reviewing plans and specifications for water, wastewater and subdivisions,

- To pursue administrative order enforcement options,

- To establish administrative ($500 per day) and civil penalties ($10,000 per day) for non-compliance and

- To develop rules for review of financial viability of a proposed water supply system or public sewage system to ensure the capability of the system to meet the water and wastewater requirements. The new fees will make possible an anticipated 5.75 FTE increase in drinking water staff.

The program regulates all systems which have at least 10 service connections or serve 25 people per day for 60 or more days per year. The inventory of Montana's public water systems varies in number but currently includes 701 community systems, 1,123 noncommunity systems and 194 non-transient non-community systems. We also have a listing of 370 "inactive" PWS's, some of which become active on occasion.

From a quality standpoint, the state's drinking water is considered good in western Montana. Many supplies in eastern Montana, particularly those using groundwater, would be considered poor. The problems with these supplies are generally aesthetic, and include high total dissolved solids (TDS), sulfates, sodium, iron and manganese. Some of the surface water supplies in the western part of the state still use the surface sources without filtration and occasionally have turbidity problems, but several new plants have been constructed in the past few years with technologies that eliminate the major turbidity problems. With the finalization of the EPA's Surface Water Treatment Rule it is expected that all of Montana's unfiltered surface water systems will have to provide additional treatment. In most cases that will be filtration.

Montana has about nine community supplies that exceed 4.0 milligrams/liter (mg/l) in fluoride. These systems are required to give public notice and provide bottled water for those who prefer it. The department has been working with these systems in order to find some affordable solution to the fluoride problem. Recently the EPA has issued administrative orders to some of the systems whose fluoride levels exceed 5.0 mg/l.

Several systems exceed the maximum contaminate level (MCL) for nitrate. The department requires these systems to provide bottled water from an approved source for infants and pregnant mothers and is working with the communities to achieve long-term solutions.

Unfiltered surface water has been one of the state's major concerns for the past several years. Outbreaks of giardiasis have been experienced here as in other states, and the Public Water Supply (PWS) Program is taking action to see that the risk from Giardia is minimized. The PWS program has a person on staff who specializes in the area of Giardia filtration and control, and is having that person investigate surface sources to determine where the Giardia threat is present. Each surface system is looked at on an individual basis and recommendations are made to assure safe water is delivered to the consumers. When this system is unable to assure removal and/or inactivation of Giardia cysts, boil orders or health advisories are issued by the department. the work is done on supplies that are filtered as well as unfiltered supplies and infiltration galleries. This procedure, known as the microscopic particulate evaluation (MPE), has been a valuable tool for evaluating filter plant performance. As time permits, the staff looks at shallow wells and springs to determine whether or not they are influenced by surface water.

The program has, over the past two years, developed a method of evaluating filtration plants' performance which is patterned after the wastewater industry's Comprehensive Performance Evaluations (CPE). CPE have been performed on at least 13 of Montana's surface water treatment plants over the past three years and Composite Correction Programs (CCP) have been completed

at Miles City, Conrad, and Loma. Other CCP's are in the planning stage. This program is new to the drinking water business and there has been a great deal of interest shown by other states, American Water Works Association (AWWA), American Water Works Association Research Foundation (AWWARF), Association State Drinking Water Administrators (ASDWA) and the EPA. The EPA's Office of Research and Development and Office of Drinking Water are currently working together to fund additional CPEs and CCPs to further the work begun by Montana. The EPA is conducting an initiative that will develop the CPE/CCP program for public water systems, including groundwater systems. The work completed in Montana and, more recently in a few other states, has been used by EPA's Center for Environmental Research Information to develop a "Summary Report" titled Optimizing Water Treatment Plant Performance With The Composite Correction Program (EPA/625/8-90/017). An EPA handbook (same title) (#625-91/027) has been completed and distributed nationwide.

The majority of the state's community public water supplies are regularly monitoring for bacteriological quality but many of them miss required samples all too often. Bacterial contamination occurs at least one time per year in about 50% of the state's systems. It is estimated that about 50% of the noncommunity supplies miss one or more bacteriological samples each year. It is anticipated that the new administrative order authority will increase compliance in this area.

The LAN system (IBM PC's) is now operational and is becoming more useful. All staff members have access to the bacteriological sample database and other databases. Programs have been written to compute monthly compliance using the new total coliform regulations. Turbidity and organic data can be input to the system, but programs have not been developed to automatically compute compliance. The data management system has been dramatically improved during the past year, but there are many modules yet to be developed to make the system complete.

The MCL for coliform bacteria is frequently exceeded, and when it is, the drinking water program's staff work with the PWS personnel to identify the problem and solve it. Several groundwater supplies with bacterial problems have had to install continuous disinfection over the past few years and many more should have enforcement action taken to ensure that disinfection is installed. The groundwater disinfection requirements of the 1986 Amendments should have significant impact upon the state's systems if adequate resources become available for implementation. In January 1991, 29 Administrative Orders were issued to PWS's where bacteriological monitoring or MCL's have been violated.

Priority objectives for FY 1992 include:

- Develop rules for collection of newly authorized fees,
- Develop rules for new enforcement procedures,
- Enforcement of current requirements,
- Improve the bacteriological quality of those PWSs that have coliform problems or high standard plate counts,
- Provide follow-up investigations of unfiltered surface water sources to determine whether or not they will meet the avoidance criteria for the filtration requirements of the 1986 Safe Drinking Water Act (SDWA) amendments,
- Investigate all PWSs that could be at risk for Giardia, do evaluations and make recommendations to see that the risk is minimized,
- Complete CPEs at 4 filtration plants,
- Continue CCPs at 2 filtration plants,
- Improve compliance of public water supplies for all of the requirements of the SDWA,
- Conduct field investigations at 40% of the State's PWSs,
- Provide training and certification of water and wastewater operators of community PWSs,
- Improve the state's operator training and certification program using information gained from CPEs and CCPs,
- Review plans and specification for construction on public water and sewer systems,
- Improve plan review procedures and policies and rewrite regulations as needed,
- Provide certification for laboratories.
- Make required changes in the PC system including updating to the new FRDS,
- Prepare to make the necessary rule changes to maintain primacy,
- Adopt rules for public notice, volatile organic compounds (VOCs), surface water treatment and coliform, and submit request to EPA for necessary changes in the primacy package and
- Coordinate activities with the department's Wellhead Protection Program.

CONSTRUCTION GRANTS/STATE REVOLVING LOANS

A federal grant program was initiated in 1956 to assist municipalities in the construction of sewage treatment facilities. Originally the state assisted the EPA and predecessor agencies in administration of this program by establishing needs and priorities, reviewing project applications, and preliminary and final plans. In recent years, administration of the program has been delegated to the state with the EPA assuming an oversight role. Administration of the

State Revolving Loan Program will be a complete state responsibility.

An annual priority list is developed to rank projects and determine which communities will receive grant and loan assistance. The priority system considers impairment of classified water uses from existing municipal pollutant discharges, as well as the extent of surface or groundwater degradation and associated public health concerns.

A shift in responsibility to states and municipalities for financing, building and replacing sewage treatment facilities began with the 1977 Amendments to the Clean Water Act. The federal role was further reduced by the 1981 Amendments which reduced the federal grant share, cut the federal annual authorization in half and restricted eligible funding categories.

The Water Quality Act of 1987 completed the transition to full state and local responsibility. The grants program received appropriations through fiscal year 1990. The 1987 Amendments allow for creation of a state revolving loan fund capitalized with federal grants to provide loans and other financial assistance to municipalities for construction of wastewater treatment facilities. The capitalization grants are authorized through 1994. Enabling legislation creating the revolving loan program was introduced in the 1989 Legislature and was titled the "Wastewater Treatment Revolving Fund Act." The bill was passed and signed by the governor in May of 1989. The State of Montana has established the Wastewater Treatment Revolving Fund and will make loans in 1991 and 1992 to seven communities, utilizing federal funds appropriated in federal FY (FFY) 1989, 1990 and 1991. Montana's first capitalization grant was received in September 1991.

Although federal financial assistance is declining, wastewater treatment and collection system needs in the state continue to grow. A number of unsewered communities with failing on site sewage systems have been identified on the annual project priority list as being in need of costly capital improvements. Rehabilitation of aging sewage collection systems subject to excessive leakage or infiltration is another significant need in many Montana communities. Many of the wastewater treatment systems built with construction grants assistance in the 1970s will require substantial upgrading and replacement of unit processes in the 1990s to perform satisfactorily and meet discharge permit requirements. Increased user costs and project affordability will be an issue that financial assistance programs and local governments must contend with in the future.

The proper operation and maintenance of existing treatment facilities, especially as they age and approach design life, will require and increased level of attention from the WQB in the form of operator training and plant inspection. The state, in conjunction with Northern Montana College, will administer the

Montana Environmental Training Center which is partially funded with the 109(b) Training Grant. The bureau has taken an active role in 104(g) training activities in support of compliance maintenance. A restructured wastewater treatment inspection program was developed with the goal of identifying existing and potential performance limiting factors consistent with the goals of the EPA's Municipal Pollution Prevention Program.

Montana will assist the EPA in meeting the EPA's water accountability system to the extent resources allow. Consistent funding is critical in meeting work plan goals.

Contact Persons:

Water Quality Bureau, DHES (406/444-2406)
- Dan Fraser, Chief
- Loren Bahls, EcoSystems Management Section
- Jim Melstad, Safe Drinking Water Section
- Scott Anderson, Municipal Wastewater Assistance Section
- Fred Shewman, Permits and Enforcement Section
- Abe Horpestad, Special Studies and Support Section
- John Arrigo, Groundwater Program Manager
- Kevin Keenan, Enforcement Coordinator

EPA Montana Office (406/449-5486)
- Bill Engle, Chief, Water Programs

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
ECOSYSTEMS MANAGEMENT		TOTAL	10.50	1.3	497,280	788,000 (est'd)	
I. Administration			0.25	.15	15,000	20,000	
A. Provide general program direction, administrative and supervisory support to the WQ Management Section.	Ongoing	Ongoing					WQB
B. Meet to discuss program accomplishments and to identify and report progress.	Quarterly	Quarterly					WQB, EPA
C. Prepare a program oversight report on WQM activities.		01/92 07/92					EPA
D. Administration of RPCPO WQM pass-through projects.	Ongoing	Ongoing					WQB
E. Submit SFY 1993 WQM Cooperative Agreement Applications.		06/92					WQB
F. Take action on WQM Cooperative Agreement Applications.		06/92					EPA
G. Provide training to Water Quality Bureau staff as needed.	Ongoing	Ongoing					WQB
II. Water Quality Assessment/Planning/Reporting			2.2	0.2	30,000	50,000	
A. Assist and oversee WQM pass through projects. Yellowstone County Ground Water Study Stillwater County Butcher Creek NPS Management Plan							WQB
B. Enter WBS information and complete update of the system.		04/92					WQB
C. Integrate 319 Assessment update, Clean Lakes and 304(e) lists, and lists of WQ limited stream segments in need of TMDL/WLA/LA's in 1992 305(b) Report.							

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
D. Submit Draft 305(b) Report to EPA.		02/92					WQB
E. EPA Comments on Draft 305(b) Report.		03/92					EPA
F. Submit Final 305(b) report to EPA		04/92					WQB
G. Continue to support, carryout and promote bio-assessments on 319 demonstration project streams. (Godfrey, Otter, East Spring, Ninemile, Threemile, Big Spring, Beaver, Libby, Big Otter, Butcher Creek, and Elkhorn Creeks; and Musselshell and Upper Blackfoot Rivers) and their associated reference streams.							WQB
H. Integrate water quality assessments, prioritization of control needs and management planning utilizing the existing mechanics of the 305(b) report, MPDES permits, MGWPCS permits, Nonpoint Management Program, CPP, WQM Plans, WQS, 401 Certification, State/EPA Agreement.	Ongoing	Ongoing					WQB
I. Attend and participate in Assessment and Monitoring Regional Workshop in Denver.	09/91						
J. Compare available data on nutrient concentrations, macroinvertebrate standing crops and fish densities in the Clark Fork River and other Montana rivers. This information could help us to predict effects of nutrient reductions on fisheries.	Ongoing	Ongoing				4,000	WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
* Feasibility analysis: summarize current efforts and expectations with input from respective program managers; prepare plans to control pollution problems not addressed by current programs.							
* Implementation mechanisms: establish a Basin-wide and interstate framework for systematically implementing pollution control mechanisms and providing continuity; identify obstacles and make recommendations in the following areas: education, legislation, funding, enforcement, data management, monitoring, public involvement, responsible agencies. (Section 525 Steering Committee Schedule is available.)							
III. Monitoring			2.3	.05	70,280	110,000	
A. Collect and analyze ambient water quality and nutrient from 32 locations, and periphyton and macroinvertebrates from 25 locations in the Clark Fork Basin.		06/92				34,000	WQB
B. Prepare Clark Fork River Monitoring Completion Report		01/92					WQB
C. Continue periodic sampling to check for effectiveness and make adjustments to the Freezeout Lake/Priest Butte Lakes/Teton River WQM Plan.	09/91	06/92					WQB
D. Continue support monitoring of Flathead Lake and tributaries by UM Yellow Bay Biological Station. Work with monitoring agencies to evaluate and present results.							WQB

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
E. Initiate Section 314 Clean Lakes Phase I Study on Flathead Lake.	07/91					(70,000)	WQB
F. Coordinate Nonpoint Source Monitoring Task Force and NPS monitoring and assessment activities statewide and continue development of statewide NPS monitoring strategy.							WQB
G. Conduct additional monitoring/surveillance in support of permits, construction grants, WQS, WLA, NPS, 304(e) and UAA studies.							WQB
H. Conduct biosurveys of least impacted reference streams statewide (outside CFR basin) using Rapid Bioassessment Protocols, water column measurements, and stream reach assessments.						(30,000)	WQB
I. Conduct before and after monitoring NPS demonstration project sites in accordance with project monitoring plans.							WQB
J. Conduct monitoring for the purpose of updating assessments in WBS.						(10,000)	WQB
IV. NONPOINT SOURCE			5.75	0.4	372,000	558,000	
A. Oversee and involvement in interagency Statewide Nonpoint Source Task Force.	Ongoing	Ongoing					WQB
B. Update Assessment Report based on monitoring as necessary to meet Section 319(h)(10).							WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
C. Attend Oct. 1-2, 1991 NPS Coordinators meeting.	10/91					WQB	
D. Implement EPA/USDA NPS Program Coordination Guidance.							WQB
E. Submit application for 319 Management Program implementation for potential 319 implementation grant.		01/92					WQB
F. EPA take action on State's 319 Program Implementation funding application.		06/92					EPA
G. State will submit annual Nonpoint Progress Report. (including necessary information for Report to Congress and required information for Report to Congress).	09/30/91						WQB
H. State and EPA will track implementation of Nonpoint Program milestones in accordance with schedule established in Nonpoint Management Program and 319/2201(g)(1)B grants and subcontracts.	Ongoing	Ongoing					WQB/EPA
I. Review mining and timber harvest plans, and conduct complaint investigations for possible MWQA "placing wastes" violations.							WQB
J. Continue to pursue funding for NPS demonstration and implementation projects.							WQB
K. Improve evaluation of effectiveness of existing hydro modification pollution control program, and integrate results into 319 Annual Report.							WQB
L. Improve effectiveness of existing land disposal pollution control program, and integrate results into 319 Annual Report.							WQB

SFY 90
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
M. Monitor, coordinate, assist and implement 319 Nonpoint Source Watershed Demonstration Projects on Nine Mile Creek, Godfrey Creek, Three Mile Creek, Elkhorn Creek, Upper Blackfoot River, and Bullhead Water Quality Project.							WQB
N. Monitor, coordinate, assist, and implement 319/201(g)(1)(b) Nonpoint Source Watershed Demonstration Projects on Otter Creek, East Spring Creek Salinity Control Project and Musselshell River.							WQB
O. Participate in Flathead Basin Forest Practice/Water Quality/Fisheries Cooperative. (Workshop July 1991.)							WQB
P. Support USDA Water Quality initiative by cooperating and coordinating with USDA in regard to selection of demonstration projects, hydrologic unit funding candidates, and ACP Special Water Quality projects. Support USDA-WQB interagency liason staff position. Participate on Montana USDA FAC/CRD Committee, State Committee on cost-share programs.							WQB
Q. Carry out Nonpoint Source Education Program (i.e., Pilot Watershed Curriculum; Coordination with CES, Department of Agriculture; Logging BMP Workshops; Watershed Demonstration Project Information Dissemination; Riparian Management; Small Miners; Forestry BMP Program). Report results in 319 Annual report.							WQB

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
R. Carry out Interagency NPS Tour.	07/91						WQB/EPA
S. Carry out three day Montana Water Quality Conference.		01/92					WQB
V. 404 Permit Review and 401 Certification	Quarterly Review	Quarterly Review	0.55	.40	5,000	30,000	
A. Review all 404 permit applications and provide comments. Establish conditions for 401 certification to prevent WQS violations or deny certification for projects that will violate WQ standards. Conduct inspections as necessary. EPA will provide 401 certification for proposed 404 permits on Indian Reservations and provide appropriate comments.	As appropriate						WQB, EPA
B. States and EPA will recognize that wetlands are waters of the U.S. and as such, will receive the same level of protection from discharges of pollutants pursuant to the Clean Water Act.							WQB, EPA
C. Assist with the coordination of 124, 310 and 404 permit programs.							WQB
D. Issue 3(a) authorizations for short-term activities which exceed turbidity standards. Conduct inspections as necessary to verify compliance.							WQB
E. Review and comment on proposed 404 permits to assure that projects are compatible, or that appropriate conditions are included to insure compliance with 404(b)(1) guidelines. Monitor selected projects for compliance with 404 permit stipulations.							EPA

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
F. Develop a plan for protecting wetlands from discharges of pollutants through application of the NPDES program, the 404 program, 401 certification, and other programs.							EPA, WQB
G. Carry out Interagency Highway/Wetlands Evaluation and Mitigation MOU activities.							EPA/WQB
H. EPA will assist Indian tribes in improving effectiveness of wetland protection programs.							EPA
I. EPA will pursue effective enforcement of 404 program through coordination with COE and direct EPA enforcement.							EPA
J. EPA will administer 404 extramural funded projects with Montana Riparian Association (related to riparian wetland protection) and placer mining environmental education and MACD video.	Ongoing	Ongoing				(17,800)	EPA
VI. Data Management/Quality Assurance	Ongoing	Ongoing	0.9	.1	15,000	20,000	
A. Continue data handling, editing, distribution, storage and reporting activities to support water quality program needs including the annual updating of the data and input all data from monitoring activities into STORET.							WQB
B. Process water quality data as submitted by the State into STORET.							EPA
C. Continue development of WQB Biodata System.		As Time Allows					WQB
D. Maintain paper (basin) files of ambient WQ data.							WQB

SFY 92

WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
E. Continue development and use of Waterbody System (WBS) and finalize Stream Reach Tracking System. (See Water Quality Assessment).							WQB/EPA
F. Continue quality assurance/quality control activities to support water quality program needs.							WQB/EPA

FY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
DELEGATION AND PROGRAM ADMINISTRATION				
1. Administer delegated programs in accordance with MOA, program description, EMS, penalty policy, and State and federal laws, regulations, and policies.	Ongoing			WQB
2. Participate cooperatively and fully in EPA's oversight of delegated state programs.	Ongoing			WQB
3. Work toward obtaining delegation of the following NPDES programs, as appropriate: Pretreatment				
Prepare draft regulations, and take to Board of Health, MOA, program description, State Attorney General Statement;	08/30/91			
submit to EPA for review and comment.	12/31/91			WQB
4. Develop interim agreements for sludge.	10/91			WQB/EPA
5. Review and revise State statutes/regulations for inclusion of storm water provisions allowing for the issuance of storm water permits.	Ongoing			WQB
6. Identify POTWs needing a pretreatment program. Pursue POTWs attaining adequate penalty authority for an approvable pretreatment program.	Ongoing			WQB/EPA
7. Develop FY 1993 Workplan (SEA) and Enforcement Agreement, as follows:				
Provide Guidance	04/21/92			EPA
Comment on guidance/provide draft	05/07/92			WQB
Negotiations (one or two meetings)	05/15/92			WQB
Raise unresolved issues to Division/Bureau level at State and EPA	05/31/92			WQB
Resolve Issues	06/15/92			WQB
Sign Final Workplan/Enforcement Agreement	06/30/92			WQB
8. PCS data entry and automated/manual reports will be provided, as described in State/EPA by the sections on permitting, compliance, and enforcement.	See other sections			WQB/EPA by jurisdiction
9. Train the regulated community on new programs, regulations, and/or requirements.	Ongoing			WQB/EPA

SFY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
PERMITTING PRETREATMENT PROGRAM APPROVALS				
1. Draft, public notice, and issue new permits and reissue all major (and all miner facilities, as resources allow) permits due to expire. Conduct pre-permit inspections, as appropriate.	5 majors 34 minors 2 general			WQB
Provide EPA with copies of all draft and issued permits and permit modifications, of major permits and agreed upon significant minors Review draft permits in accordance with statutes, policy, guidance, and MOAs.	see MOA			WQB EPA
2. Enter all PCS permit (including compliance schedules in permits) and pretreatment data in WENDB in accordance with the PCS Policy Statement and generate DMRs for permittees. Enter Annual Reports from POTWs with approved pretreatment programs.	within 30 days of issuance 04/30/92			WQB/EPA
3. Incorporate sludge management requirements in NPDES permits in accordance with current NPDES requirement and as regulations and policy are adopted. Incorporate appropriate reopener language to allow sludge control requirements in all permits as regulations and requirements are developed.	Ongoing			WQB
4. Include whole effluent toxicity (WET) testing requirements in major permits in accordance with State water quality standards as they are issued or reissued and will include WET limitations in all permits where it has been determined that a discharger causes or has the reasonable potential to discharge WET.	Ongoing			WQB
5. Review EPA drafted permits for State Requirements (State Section 401 Certification.)	Ongoing			WQB
6. Include pretreatment reporting (CWA Section 402(b)(8) and program approval requirements in permits of facilities which the State or EPA determine are required to have a pretreatment program.	Ongoing			WQB

SFY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
PERMITTING/PRETREATMENT PROGRAM APPROVALS (CONTINUED)				
7. Work with the regulated community on the preparation of applications for storm water permits and permit modifications.	Ongoing			WQB
Receive and review Phase I storm water permits or amend NPDES permits for facilities meeting the definition for Phase I.	Ongoing			WQB
Receive and review Phase II storm water permits or amend NPDES permits for facilities meeting the definition for Phase II.	Ongoing			WQB
8. Issue general permits for storm water, portable suction dredges and construction dewatering.				WQB
Provide EPA with a list of candidates for each general permit.				
9. Include appropriate language in permits regarding RCRA, UST, and CERCLA requirements that apply to the NPDES program, including RCRA corrective action, as applicable. Inform affected POTWs regarding their responsibilities, including information in Annual Reports.	To be determined			WQB
10. Provide to EPA, on a quarterly basis, a list of permittees requesting evidentiary hearings and the status of hearing requests, number of major permits issued containing WQS (and/or the nature of the WET limits) based limits, and/or sludge limitations and/or sludge monitoring.	07/05/91 10/05/91 01/05/92 04/05/92 07/05/92			
11. Reopen all affected permits based on new effluent guidelines promulgated in the fiscal year to include revised requirements.	Ongoing			WQB/EPA

SFY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
COMPLIANCE MONITORING				
1. Inspect/audit all major permittees and inspect/audit all POTWs with approved pretreatment programs at least annually and submit completed reports within time frames described in the FY 1992 Annual State/EPA Compliance Inspection Plan. Conduct these inspections and audits, and other inspections as Inspection agreed to in the FY 1992 Annual Compliance Inspection Plan. Have a goal of inspecting minor facilities at the rate of at least once every five years.	Plan schedule			WQB/EPA
2. Develop the FY 1993 Inspection Plan in accordance with National Compliance Inspection Strategy.	06/30/92			WQB
3. Provide each other with inspection reports within the time frames described in the FY 1992 Annual Compliance Inspection Plan.	Ongoing			WQB/EPA
4. Quarterly/ongoing updating of PCS as follows: DMRs -- within 30 days of submission of the DMR by the facility (for majors) Compliance Schedule Reports -- within 14 days of receipt of the report QNCRs -- ready for EPA pull one week after the last RNC run (see RNC Schedule) information is lapsed a quarter Inspection Report data -- within 30 days of receipt of inspection results.	As noted			WQB/EPA
5. Follow up on significant problems which are identified through the DMR QA program. Submit to EPA by a summary of DMR QA follow up actions.	03/15/92			WQB
6. Locate and control IUs in POTWs with unapproved programs. Oversee IU compliance in POTWs with approved programs through independent inspections and sampling. Coordinate with POTWs with approved programs on enforcement actions against IUs.	Ongoing			EPA/WQB

SFY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
ENFORCEMENT				
1. Provide separate quarterly case listings of NPDES and pretreatment enforcement actions taken each quarter, as follows: Administrative Compliance Orders (PCS entry), Administrative Penalty Orders (PCS entry), Final Administrative Penalty Orders (PCS entry), total amount of administrative penalties assessed, Civil Referrals to the State Attorney General (manual), Civil Cases filed in Court (manual), total amount of civil penalties assessed, Civil Cases closed, and Criminal Cases filed by SAG in State court.	07/05/91 10/05/91 01/05/92 04/05/92 07/05/92			WQB
2. Address noncompliance and initiate enforcement actions consistent with the FY 1992 Enforcement Agreement and the Enforcement Management System. Initiate enforcement actions where it has been determined that significant violations of NPDES permit requirements, the Clean Water Act, or applicable regulations have occurred: NPDES, Section 311 (hazardous substance spills), federal facilities, pretreatment, and cross-media/program actions. Notify EPA or the State pending enforcement actions.	Ongoing			WQB/EPA WQB/EPA
3. Send Notices of Violation (NOVs) to delegated State where the Region has determined significant violations of NPDES permit requirements, the Clean Water Act, or applicable regulations have occurred. Notify State of EPA enforcement action in the State related to a nondelegated program.	As needed			EPA
4. Act against those permittees where State has not responded to an NOV or those cases where State action is not adequate to meet Clean Water Act requirements (Section 309(a)(1), Section 309(a)(2) of the CWA).	As needed			EPA
5. Develop a written Enforcement Management System (EMS) documenting the violation review process, enforcement review guide, penalty policy, and other appropriate items.	10/01/91			WQB
6. Exchange copies of correspondence to and from major and designated minor permittees regarding violation follow up and enforcement actions.	Ongoing			WQB/EPA

SFY 92
STATE/EPA NPDES MEDIA WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	WORKYEARS	DOLLARS	ASSIGNED TO
ENFORCEMENT (CONTINUED)				
7. Immediately (within 24 hours) inform the EPA when significant unauthorized discharges (excluding those contained on DMRs or EPA inspection reports) from either permitted or unpermitted sources are identified by the State.	As occurs			WQB
8. Take appropriate enforcement action against Industrial Users and POTWs for violations of pretreatment standards. For municipalities requiring, but not submitting pretreatment programs, take appropriate action to assure submittal of an approvable program. Penalties will be sought, as necessary, consistent with the Enforcement Agreement.	Ongoing			EPA
9. Address noncompliance and initiate enforcement actions against facilities on Indian reservations within the boundaries of the State where it has been determined that significant violations of NPDES permit requirements, the Clean Water Act, or applicable regulations have occurred.	As needed			EPA
10. Coordinate on cross-program enforcement actions/pilots.	As needed			WQB/EPA

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
IV. Water Quality Standards			1.5	0.3	11,859	68,112	
A. The State will revise the water quality standards and make the necessary non-degradation modifications. Items to be addressed include:		06/92					WQB
1. Mixing Zones: The State will identify methods by which mixing zones are established to ensure no lethality within the mixing zone.							EPA/WQB
2. Stream Reclassifications: The State will look into reclassifying 22 streams impacted by abandoned mines to I classification and some A-Closed streams to A-1 streams. Use Attainability Analyses will be prepared for each stream to be reclassified and UAA's submitted to EPA for review and approval/disapproval.							
3. Numeric standards will be incorporated into standards instead of Gold Book references.							
4. BMP's will be explained for various classifications.							
5. Variance/temporary modifications: State will review/revise the variance provisions to ensure the policy includes public participation, EPA review and approval, and criteria identified in 40 CFR 131.20.							
B. The State will identify water bodies needing Use Attainability Analyses and submit a schedule for Use Attainability Analyses for unclassified waterbodies, (if fishable/swimmable use designations	Ongoing						WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
not included in WQS revisions) water bodies without primary contact recreation, aquatic life, and water bodies where changes to subcategory uses with less stringent criteria are contemplated.							
1. State will perform Use Attainability Analyses for unclassified water bodies and submit results to EPA for approval/disapproval.	(No date)						WQB
C. The State will review available information on conventional/traditional pollutants/constituents and revise/adopt criteria appropriate for protection of designated uses.	Ongoing						WQB
D. The State will develop narrative water quality standards for wetlands.	Ongoing						WQB
E. The State will develop narrative biological criteria in their water quality standards to protect the designated uses.	Ongoing						WQB
F. EPA will provide technical assistance to the State for UAA and toxic pollutant criteria development, implementation procedures development, and identification of waters where 307(a) priority pollutants could reasonably be expected to interfere with attainment of designated uses.	Ongoing						EPA
G. Identify TMDL/WLA/LAs to be completed by April 1994.		04/92					WQB/EPA

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
GROUND WATER POLLUTION CONTROL PROGRAM (excludes UIC)					$167,056	$220,312	
I. Administration					$ 47,108	$ 24,325	
A. Conduct administrative duties necessary for program maintenance and development (budgets and contracts, write reports, and plan.	Ongoing		0.4	0.1			WQB, EPA
B. Supervise, assign duties, fill positions, train, monitor, evaluate staff.	Ongoing		0.2				WQB (106)
C. Participate in EPA state program profile and and roundtable (Oct. 91) and begin development of CGWPP (Jan. 92).	Roundtable completed		0.1				WQB (106)
D. Update rules to include mandates under the MACGWPA, water districts and other updates (Draft Feb. 92 and Final June 92).	Draft rules complete	Final rules	0.2				WQB (106)
E. Participate in CWA Task Force to review and update CWA programs (Bimonthly).	Draft Plan complete	Final plan	0.1				WQB (106)
II. Permits and Enforcement					$38,697	$82,297	
A. Process pending permits, (bimonthly).	3	6	0.7				WQB (State)
B. Review permit file, determine permit status, prioritize renewals and compliance inspections (July 91).	Complete	10	0.1				WQB (State)
C. Develop permit application guidelines (Aug. 91).	Complete		0.1				WQB (State)
D. Assist in review of DSL operating permit applications (ongoing).	2	4					

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
E. Develop general permit for landfarms and discharges from ground water cleanups (Sept. 91).	Complete		0.1				WQB (State)
F. Respond to citizen complaints and inquiries related to ground water and investigate and require cleanup of spills of materials that threaten ground water quality (ongoing).	10	20	0.3				WQB (State)
G. Support enforcement activities related to MGWPCS permit violations and other Water Quality Act violations related to ground water (ongoing).	2	4	0.2				WQB (State)
III. Wellhead Protection						$60,625	
A. Form a WHP Public Advisory Committee to advise on plan development and implementation (Quarterly meetings).	2		0.3				WQB (106)
B. Write WHP program and submit to EPA (June 92).		Submit Plan	0.3				WQB (106)
1. Identify options for WHP Implementation (Sept. 91).							
2. Establish delineation criteria (Jan. 92)							
3. Develop prioritization system to rank communities for WHP implementation (April 92).							
C. Establish a public awareness/education action plan for WHP and submit to EPA for input (July 91) and implement FY 92 objectives (ongoing).	Implement plan		0.1				WQB (106)
D. Establish an information data base for WHP references and related programs (July 91).	Complete		0.1				WQB (106)

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
E. Initiate WHP within a small community and an individual school system (Aug. 91) and followup (Mar. 92).			0.1				WQB (106)
F. Coordinate with Missoula to implement WHP program and public promotion activities.	Ongoing		0.1				WQB (106)
IV. Agrichemical Ground Water Program					$15,000	$50,565	
A. Assist in the development and review the general pesticide management plan (Dec. 91).	Draft plan	Final plan	0.3				WQB (106)
B. Write rules, establish standards for pesticides in in ground water (Draft Feb. 92 and Final June 92).	Draft rules	Final rules	0.2				WQB (106)
C. Establish pesticide ground water data system (Nov. 91).	Complete		0.1				WQB (106)
D. Assist the DOA with ground water monitoring.	Quarterly		0.1				WQB (106)
E. Provide contract/project development and oversight:							
1. USGS Clarks Fork Yellowstone baseline hydrogeology study (July-Sept. 91).	Ongoing		0.1				WQB (10)
2. Lewis and Clark County ground water risk mapping and assessment (monthly).							
3. MSU Extension BMP compilation and education.	Quarterly						
F. Participate in education programs.	Quarterly		0.1			$2,500	WQB (106)

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
V. Nonpoint Ground Water Assessment and Prioritization							
A. Oversee and review MBMG statewide ground water mapping and assessment.	Ongoing		0.1				WQB (106)
B. Assist MBMG in development and prioritization of ground water (Jan. 92).		Prioritization complete					WQB (106)
VI. Burlington Northern Fueling Sites					$66,251		
A. Coordinate with SHWB, BN and BN contractors to monitor progress at each site.	Ongoing		0.2				WQB (BN)
B. Conduct CECRA Preliminary Assessment of selected sites; Shelby (Aug. 91), Glasgow (Sep. 91), Essex Nov. 91), Whitefish (Jan. 92) Jones Junction (Mar. 92).	3	5	0.3				WQB (BN)
C. Conduct compliance inspections of selected sites: Laurel and Jones Junction (July 91), Shelby and Glasgow (Aug. 91), Essex and Whitefish (Oct. 91), Missoula (Mar. 92).	5	7	0.2				WQB (BN)
D. Review and comment on work plan (Aug. 91) and evaluate monthly recover reports (monthly).			0.2				WQB (BN)

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
DRINKING WATER PROGRAM - PUBLIC WATER SYSTEMS		TOTAL	14.5	1.00	202,659	607,976	
I. PRIMACY PROGRAM ACTIVITIES							
A. Conduct sanitary surveys on CWS and NTNCWS a minimum of once/3 years and non-comm. PWS's once/5 years.							WQB
1. WQB Staff		85					
2. Contracted sanitarians (Grants - Local Health Depts.)		490					
3. Contracted individuals		150					
B. Administer a lab certification program for labs which process PWS compliance samples.		1					WQB
C. Review and approve engineering plans & specifications for new construction and modifications to existing PWS's.		250					WQB
D. Develop a schedule which indicates when PWS's shall be evaluated for:	11/01/91						WQB
- meeting criteria for avoiding filtration - adequacy of treatment for systems which filter - identification of ground water systems under the influence of surface water.							
E. Determine and report to EPA which unfiltered systems will be required to filter.		02/01/92					WQB
II. REGULATIONS							
A. Adopt and begin implementation of the VOC and Public Notification rules.	08/01/91						WQB

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
B. Submit final and complete application packages for SWTR and TCR;	12/31/91						WQB
Submit draft of 142 requirements	10/01/91						WQB
C. Submit schedule (showing dates for draft application, final application, rule adoption, and implementation) for the Phase II regs, and for the lead/copper regs.	12/01/91						WQB
D. If applicable, submit request for extension for Phase II regs.		01/01/92					WQB
III. ENFORCEMENT							
A. Review EPA's Escalation Model and, if necessary, modify State Compliance Strategy to be consistent with EPA's enforcement priorities.	10/31/91						WQB
B. Develop and adopt the State rules for implementation of administrative enforcement procedures; administrative and civil penalties.	11/01/91						WQB
C. Respond to NPDWR violations and take formal action on all continuing violations by following procedures described in the State Compliance Strategy.		Ongoing					WQB
D. Assess the use of Sec. 1431 emergency authority to correct drinking water contamination incidences unaddressed by the State or at the request of the State.		Ongoing					EPA
E. Participate in enforcement reviews with the EPA project officer and supply documentation of enforcement actions.							WQB

SFY 92
WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
F. Revise SEA Enforcement Agreement to incorporate the new SNC definitions and establish FY92 targets for reduction of SNC's and exceptions. EA should also contain a description of the State's administrative, civil, and/or criminal penalty authorities for violation of State drinking water regulations. Protocols for discussion, advance consultation, and notification of Federal enforcement actions shall be delineated.		11/01/91					WQB/EPA
G. EPA shall take formal actions against SNC's and exceptions which are not addressed by the State.							EPA
H. EPA may take formal enforcement actions against other violators, following the protocol outlined in the Enforcement Agreement and EPA Region VIII's "Procedures for EPA Enforcement in Primacy States".							EPA
I. Provide semi-annual updates of Federal Agency Pollution Abatement Five-Year Plans and notify EPA of any additional Federal facilities which should be included in the Plan.		Semi-Annual					WQB
J. Review violation history of all Federal facilities to ensure compliance.		Semi-Annual					EPA
K. See additional enforcement activities under "Reporting".							
IV. DATA							
A. Maintain records essential for administering the PWSS program.		Ongoing					WQB
B. Develop procedures for reporting turbidity, inorganic and organic data to FRDS in DT format.		12/31/91					

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
C. Develop and implement, if resources permit, ongoing procedures to verify FRDS data quality.	12/31/91						WQB
D. Follow-up on problems identified in the 1990 EPA data verification study. Report progress.	Mid-Year						WQB
V. GRANTS							
A. Manage/evaluate PWSS grants by conducting in-depth mid-year review and quarterly reviews to assess SEA performance.							EPA
VI. LEAD							
A. Continue to implement and enforce the lead ban.	Ongoing						WQB
B. Maintain records which demonstrate effective enforcement of the lead ban and provide this information to EPA.	12/01/91						WQB
C. Provide lead analytical data from PWS's to EPA if requested.							EPA
D. Provide State with detailed summary of steps required to assure receipt of lead withhold funds.	10/01/91						EPA
VII. TECHNICAL ASSISTANCE							
A. Provide support to Superfund for site-specific actions, reviews of remedial and feasibility studies, and application of drinking water standards, so far as staff time is available.	As requested						EPA/WQB

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
VIII. REPORTING							
A. Report into FRDS all formal enforcement actions issued the previous quarter including bilateral compliance agreements, AO's, and civil or criminal cases referred, filed, and concluded.		within 45 days of end end of each quarter					WQB
B. Report quarterly the status of all SNC's and exceptions.		Quarterly					WQB/EPA
C. Report previously addressed SNC's/exceptions as new exceptions if they:		Quarterly					WQB
1. fail more than 60 days to meet the conditions of any compliance schedule, or							
2. were addressed by a referral to the State AG and a case has not been filed within 120 days of referral.							
D. Submit inventory, violation, and enforcement data to FRDS for all public water systems.		within 45 days of end of each quarter					WQB
E. Report compliance data for the Total Coliform Rule in the new FRDS-II Data Transfer Format (DTF).		within 45 days of end of each quarter					WQB
F. Modify data reporting process so that:		12/31/91					WQB
1. all data input to FRDS-II is reported in the new DTF, and							
2. all "registration required" and "Grant Eligible" data is reported.							

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
G. Report unregulated contaminant data to EPA via hard copies of the lab reports. Electronic reporting may begin after implementation of the new data system.	Semi-Annual						WQB
H. Continue to report compliance from systems trying to avoid filtration. Prior to 1/1/92, report M/R violations After 12/31/91, report all violation types.							
IX. MOBILIZATION							
A. Update, if necessary, State written mobilization strategy.	12/31/91						
B. Explore options to increase program resources (State capacity building).	Ongoing						WQB
C. Support State mobilization efforts.							EPA
D. Evaluate mobilization activities during quarterly reviews.							EPA/WQB
E. Manage/track mobilization incentive grants.							EPA
X. PROGRAM EVALUATION							
A. EPA and the State shall review the following items:	Quarterly						WQB/EPA
1. Progress made in achieving the SEA goals.							
2. Status of grant funds/applications, etc.							
3. Implementation of Compliance Strategies to resolve all SNC's and other high priority violations.							

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
4. Identification of State and Federal enforcement candidates.							
5. Progress on the development of a State data quality assurance activity for FRDS reporting.							
B. Address the following issues which were identified in the FY90 Mid-Year Evaluation:							
1. Drinking Water Program staff shall conduct joint sanitary surveys with local health departments and contractors.							
2. Program staff shall conduct on-site reviews of those PWS's with specific compliance problems.							
XI. SPECIAL ACTIVITIES							
A. Provide the State the opportunity to comment on the Tribal jurisdictional assertion portion of the "treatment as a state" applications for Tribal primacy.	At least 30 days before comments are due						EPA
B. Encourage PWS's to sample for VOC's when an underground storage tank (UST) site may impact a PWS using plastic lines.							WQB
C. Administer an operator certification program.	Ongoing						WQB
D. Investigate suspected waterborne disease outbreaks.							WQB
E. Investigate suspected incidences of sources of drinking water contamination.							WQB

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
CONSTRUCTION GRANTS/STATE REVOLVING LOANS							
I. Participate in Regional Construction Grants Oversight/ Office of Water Accountability Systems.			10.8	1.2		443,733	WQB, EPA
A. Montana will submit detailed workplan containing core elements of the program including quantitative estimates of performance per Regional Construction Grants Oversight System and EPA's specific guidance by October 15, 1991. A draft workplan will be submitted by July 15, 1991. EPA will provide specific guidance to the state on the workplan by July 1, 1991. Upon acceptance by EPA it will become part of the SEA.							WQB
B. Montana will carry out the Construction Grants Program in accordance with the 205(g) Delegation Agreement and the annual workplan. The Region will conduct all nondelegated functions consistent with these agreements.							WQB, EPA
C. Implement changes resulting from the Water Quality Act of 1987 including modifying the Delegation Agreement in a timely manner.	As required						WQB
D. Implement the State revolving loan program including the awarding of seven loans by the end of 1991.							WQB
E. Implement the sludge management program regulations as resources allow.							WQB

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
F. Montana will work towards completion of construction grants projects in accordance with EPA's National Municipal Policy.	Semi-annual review	End of year review					WQB
G. Montana will continue to work with EPA in implementing the Operations Management Evaluation Program.	Semi-annual review	End of year review					WQB, EPA
H. Montana will develop a small community outreach program.	Semi-annual review	End of year review					WQB, EPA
I. Review operation and maintenance aspects of waste water treatment facilities, provide assistance and training where appropriate. Work towards development of a Municipal Pollution Prevention program utilizing existing programs as much as possible.	Semi-annual review	End of year review					WQB
J. Submit candidates for the 1991 EPA operator and maintenance excellence awards program.	As required						WQB/EPA
II. Operation and Maintenance/Operator Training				.1			
A. Conduct 7500-5 on-site inspections, or the equivalent, using State Inspection forms. Publicly owned waste water treatment works will be inspected at least once every three years.	25	50	Also utilize Resources in Drinking Water				WQB
B. Publish Big Sky Clearwater.	08/91	02/92					WQB
C. Conduct annual operators school at Montana State.	09/91						WQB

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WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
D. Coordinate and monitor 104(g)(1) program and consider development of proposal as resources allow.							WQB
E. Review progress, provide assistance as requested in the conduct of the 104(g)(1) grant activities.	Quarterly	Quarterly					EPA/RO
F. Administer 109(b) Regional Training Facilities Grant in accordance with Statewide Operator Training strategies.	12/91						WQB/NMC
G. Issue certification licenses to operators and give examinations to new operators.							WQB & Water & Waste Water Operator Certification Advisory Council
H. Coordinate waste water training program.							WQB/NMC
1. Needs identification.							
2. Publish yearly training calendar.							
3. Conduct training seminars and workshops.							
4. Coordinate 109(b) activities							

SOLID AND HAZARDOUS WASTE MANAGEMENT

The disposal of solid waste has become a major, complex problem in Montana. Due to its nature, it also relates to air, water and land pollution. In the future, the solid waste problem will become more expensive and complicated.

Our society consumes enormous quantities of material and energy which, in turn, generates an exceedingly large volume of waste. Approximately 600,000 tons of municipal solid wastes are being generated every year in Montana. Presently, waste is being disposed of in more than 90 identified municipal disposal facilities and numerous undisclosed dump sites.

State records also indicate that approximately 10,000 tons of hazardous wastes are generated each year in Montana. This volume of hazardous waste includes pesticides, heavy metals and other industrial chemical wastes. A large number of "empty" pesticide and other toxic chemical containers of all sizes are also discarded annually.

The state now possesses sufficient regulatory authority to control solid waste disposal. As required by the 1977 "Montana Solid Waste Management Act," the DHES currently is licensing all solid waste management systems in the state. This licensing procedure assures that all such systems will provide a basic public service and not degrade the environment.

Montana, through the department has received "final" authorization to manage a state hazardous waste management program. However, because of major changes in RCRA, the DHES is initiating major program development activities to insure that the state program remains equivalent to its federal counterpart. The following number of businesses have filed notifications under the hazardous waste program:

Large Generators	76
Small Generators	140
Conditionally Exempt Generators	233
Treatment, Storage and Disposal Facilities	11
Transporters	41
Recyclers	86

A fee system has been established to assist in the management of a state hazardous waste program. Under the system, hazardous waste generators and treatment, storage and disposal facilities are required to pay a fee to the state to help defray the costs of managing the state hazardous waste program.

During this fiscal year a continued priority will be the implementation and maintenance of a fully authorized state hazardous waste regulatory program. DHES will continue to seek authorization of additional regulatory clusters in order to achieve complete state authority over hazardous waste generators,

transporters and treatment, storage and disposal facilities. This authority will provide state primacy in permitting, monitoring and enforcement activities. The program will include continuing the notification procedures by regulated communities of hazardous waste activities.

The DHES will continue to provide an emergency response system, which includes a response plan and participation in an emergency response team. This team is comprised of state agencies representing a broad spectrum of disciplines. Such a structure assures that state government can provide technical advice and assistance to a variety of emergency situations.

As the state's hazardous waste program matures, measures will be taken to assure that an adequate work force is available. Efforts will be made, as needed, to supplement the current hazardous waste staff. In addition, the ongoing training of current staff will be maintained.

A concerted effort will be made to provide for public participation. Current state laws and regulations provide formal provisions for insuring public review and comment in the issuance of all permits. The level of public participation undertaken in other activities will depend on the degree of interest from affected or interested persons. Public participation will rely heavily on the mass media, direct mailings, public meetings and public hearings.

Removals, remedial investigations, feasibility studies, and remedial actions are ongoing at most of the eight uncontrolled hazardous waste sites currently on the Federal National Priority List (NPL). The DHES has entered into six cooperative agreements with the EPA to implement and oversee the CERCLA process and meet the states responsibilities under the law.

The Core Cooperative Agreement provides support for further development and implementation of Superfund in Montana.

The Multi-Site Cooperative Agreement provides funding for the DHES support agency assistance activities at the EPA lead sites and for an accelerated pre-remedial investigation program.

The state Superfund Program has had a high rate of staff turnover due to the expanding opportunities in this area of work. Realignment of sites and responsibilities to match available resources is an ongoing responsibility.

Currently, the DHES has lead management responsibility for the Silver Bow Creek Streamside Tailings operable unit, the Montana Pole site and the Idaho Pole site. Specific work efforts and commitments may be found in the cooperative agreements for these sites. The DHES also participates in the coordination of the Clark Fork River system sites and development of a comprehensive data system, via the Clark Fork Cooperative Agreement. As

funding becomes available for the Mouat Industries site or other new sites, the DHES will negotiate additional cooperative agreements for lead or support agency assistance at these sites. Removal activities are planned for Mouat Industries in early fall 1991.

The DHES has an important role in the identification and evaluation of sites for inclusion on the NPL. Under provisions of the Multi-Site Cooperative Agreement, the DHES conducts preliminary assessments (PA), and where necessary, site investigations (SI) of potentially uncontrolled waste sites identified in the EPA's CERCLA information system (CERCLIS). At present, Montana has 187 sites on CERCLIS. To date, 182 PAs and 67 SIs have been completed. In the course of conducting project activities, efforts will be made to identify uncontrolled hazardous waste sites not listed on CERCLIS.

UNDERGROUND STORAGE TANK/LEAKING UNDERGROUND STORAGE TANK (UST/LUST) TRUST PROGRAM

The Solid and Hazardous Waste Bureau of the DHES is the implementing agency for the UST/LUST program. Major priorities for FY 1992 include:

- Operate and enforce existing UST programs,
- Implementation of state petroleum release compensation fund,
- Provide assistance to local governments and the public,
- Implementation of installer licensing and installation and closure permit program,
- Public outreach to obtain voluntary compliance,
- Program authorization application, and
- Corrective action program implementation for state and federal plans.

The legislative mandates for the UST Program will continue to be carried out during FY 1992. This includes the programs for the permitting of UST installations, repairs and closures and for the licensing of installers and inspectors which started April 1, 1990. During FY 1992 the UST program will continue to designate and train local governmental agencies as Local Governmental Units to implement compliance inspection programs at the local level. State grants to implementing agencies will be made available for program service reimbursement. Training and grants for inspection equipment will also be available.

A LUST Trust cooperative agreement and funding is in place to authorize and implement corrective action efforts. The DHES will use federal LUST Trust funds and the availability of a new state cleanup reimbursement fund to accomplish satisfactory corrective actions. The DHES will continue its outreach and education efforts to obtain compliance. Enforcement actions will be taken

when necessary to emphasize the need for voluntary program compliance. Efforts will be made to cost recover LUST Trust funds in FY 1992.

Contact Persons:

Solid and Hazardous Waste Bureau, DHES (444-2821)
Duane Robertson, Chief
Vic Andersen, Superfund Section
Roger Thorvilson, Hazardous Waste Section
John Geach, Underground Storage Tank Program

EPA Montana Office (449-5414)
Eric Finke, Chief, Air, Hazardous Waste and Toxic Branch
Donald Pizzini, Chief, Superfund Branch

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
HAZARDOUS WASTE	TOTAL				11.97	4.02	208,223	624,670	
I. Program Development/Management									
A. Develop and submit authorization applications*					.30	.10			SHWB/EPA
1. Submit final application for all revisions up to and including Non-HSWA Cluster 4.		X							SHWB
2. Submit draft application for Non-HSWA Cluster 5 and HSWA Cluster 1			X						SHWB
3. Submit final application for Non-HSWA Cluster 5 and HSWA Cluster 1				X					SHWB
4. Submit draft application for Bevill Exclusion and TC Rule changes		X							SHWB
5. Submit final application for Bevill Exclusion and TC Rule changes				X					SHWB
6. Submit draft rules for Non-HSWA 6 and HSWA 2			X						SHWB
7. Submit draft application for Non-HSWA 6 and HSWA 2				X					SHWB
B. Develop or update program documents					.07	.07			
1. Memorandum of Agreement including State/EPA Permit Process	X								SHWB/EPA
2. Enforcement Agreement	X								
3. Multi-year Compliance Monitoring Strategy (Refer to "National Criteria for a Quality Hazardous Waste Program under RCRA - July 1986)	X								SHWB/EPA
4. Penalty Policy	X								
5. Negotiate & develop FY93 SEA Work Plan				X	.05	.05			SHWB/EPA
6. Document system to rank facilities for environmental priority, and complete ranking of facilities.			X						

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
C. Develop & implement cooperative arrangement for non-authorized HSWA functions.					.20	.20			SHWB/EPA
1. Corrective Action Activities			X						
2. Land Ban Inspections			X						
3. Waste Oil Inspections			X						
4. Small Quantity Generators			X						
5. Subpart X Facilities			X						
6. Burning H.W. in Boilers			X						
7. Toxicity Characteristic Rule			X						
8. HSWA Permit Modifications			X						
9. Bevill Amendment			X						
10. Wood-treating Wastes			X						
D. Waste Minimization Program (Refer to EPA Region VIII Strategy for Implementing EPA's Waste Minimization Policy under Subtitle C of RCRA.)					.30				SHWB
1. Solvent Registration Implementation	Ongoing								SHWB
2. Implement Waste Minimization Program including:	Ongoing								SHWB
o review permits for potential for waste minimization requirements									
o identify waste streams & provisions for waste minimization during inspections									
o include waste minimization requirements in enforcement settlements, as appropriate									

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
E. Training					.40				
1. Staff									
a. Update Training Plan			X						SHWB
b. Implement Staff Training Plan	X								SHWB/EPA
2. Public Education									
a. Waste Minimization	Report on Accomplishments during regularly scheduled program reviews.								SHWB
b. Other	As needed								SHWB
3. Process Training Needs		X							EPA
4. Inform State of available training	Ongoing								EPA
F. Prepare and Submit Documentation to EPA					.50				
1. SEA Commitment Progress		X		X					SHWB
2. Status of Rule Development (by Cluster and Checklist Number) for authorization		X		X					SHWB
3. Implementation (cost & courses for each employee) of training plans		X		X					SHWB
4. Enforcement Orders, Closure Plans, Permits and Corrective Action per MOA	As mailed to Facility								SHWB
5. Inspection reports and subsequent enforcement	As requested								SHWB/EPA
6. Enter data directly into RCRIS	Ongoing								SHWB
7. Conduct Annual Report Effort									
a. Mail forms		X							SHWB
b. Follow up on non-response			X						SHWB
c. Prepare data for entry into data base				X					SHWB
d. Advise on, monitor and ensure efforts	X	X	X	X					EPA

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
G. Inform EPA of legislative, regulation or judicial changes to State HW program per MOA	As appropriate				.10				SHWB
H. Participate in RCRIS process as per MOU	Ongoing				.50				SHWB/EPA
I. Attend RCRIS User Group Meetings	As scheduled								SHWB/EPA
J. Evaluate Quality Assurance Plan and update, if necessary				X					SHWB/EPA
K. Attend semi-annual Regional HW director's meeting		X		X					SHWB
L. Capacity Assurance Plan Process					.05				SHWB
1. Dialogue with other participating states	Ongoing								
2. Revise/update State CAP		X							
II. Implement State Hazardous Waste Program									
A. Compliance Inspections					2.50	.60			SHWB/EPA
1. TSD's									
a. Ground water monitoring facilities									
(1) Compliance Evaluation Inspection (3 CEIs will be performed during the 3 CMEs/O&M inspections)	2	3		4					SHWB
(2) Comprehensive Ground Water Monitoring Evaluation (CME) or Operation & Maintenance (O&M). (Refer to "EPA Region VIII, Comprehensive Groundwater Monitoring Evaluation Quality Criteria Policy")	1	1		1					SHWB/EPA
b. Non-ground water monitoring facilities	2		1						SHWB/EPA

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
c. Record reviews									
(1) Financial		1	5	3					SHWB
(2) Non-financial	As required								SHWB
2. Large generators/transporters	7	8	2	8					SHWB
3. Non-notifiers	6	4	3	7					SHWB
4. Follow-up	As Required								SHWB
5. Sampling	As Required								SHWB
6. Citizen complaints	As Received								SHWB
7. Federal Facilities (joint)	Included in A.1.b								SHWB/EPA
8. State/Local (joint)	1								SHWB/EPA
B. Manifest Exception and Discrepancy Reports reviewed	As Required								SHWB/EPA
C. Update/Revise Facility Management Plans (See permitting and enforcement sections)	1	1	1	1					SHWB/EPA
D. Permitting/Facility Management					3.80	2.25*			SHWB/EPA
1. Closure/Post Closure Permit									SHWB/EPA
a. Review permit applications	1	3	1						
b. Prepare notice of deficiency		1	3						
c. Review notice of deficiency response			1	1					
d. Draft permits			1	1					
e. Public notice				1					
f. Issue final permits			1						

* Includes Denver Office resources for permit review issuance.

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
2. Modify Operating Permits									SHWB/EPA
a. Modify Permit	1								
b. Public Notice	1								
c. Approve/modify		1							
d. Implement		1							
3. Solid waste management units/corrective action (EPA lead)									SHWB/EPA
RFI Work Plan Approval	1	1	1						
4. Corrective Actions	To be developed when RFI's completed								
E. Enforcement (timely and appropriate response to all noncompliance found)						.20		.10	SHWB/EPA
1. Take appropriate enforcement action to bring into compliance	Refer to Appendix D of SEA								SHWB
2. Other Enforcement						1.85			SHWB
a. Warning letters	Report and summarize at mid-year and year end								
b. Notices of violation									
c. Compliance orders									
d. Administrative orders	See Enforcement Agreement for Items a. through h.								
e. Civil actions									
f. Criminal actions									
g. Referrals to Attorney General									
h. Referrals to EPA									

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
F. EPA Oversight					.60				EPA
1. Inspections	1	1	1						
2. Enforcement actions	See Enforcement Agreement								
3. Permit reviews	1								
4. Closure/post closure				2					
5. State program audits		1		1					
6. Financial assurance mechanism review	Ongoing								
G. State Reporting					.15	.05			SHWB/EPA
1. Enter data into RCRIS	Ongoing								
2. New Facility Info, Insp. Report, Public Notices	As Required								
3. Annual Report		1							
4. Statutory and Regulatory Change	As Needed								
III. Assist EPA in Implementation of HSWA through cooperative arrangement until authorized for:					1.0				SHWB
A. Inspections (Number)									
1. Small Generators (20)	8	4	2	6					
2. Waste Oil (3)	1			2					
3. Land Ban (4)	1	1	1	1					
4. Burning Haz. Waste in Boilers (1)			1						
5. Toxicity Characteristic Rule (5)		1	2	2					
6. Bevill Amendment (1)				1					
B. Other activities									
1. Participate with EPA Corrective Actions Subpart X activities.	Ongoing								

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
IV. Maintain Solid Waste Management Program									SHWB
A. Inspection and Enforcement									
1. Continued maintenance of a waste management inspection program.									
2. Prepare and initiate enforcement actions where violations of license conditions have occurred.									
3. Follow-up inspections where enforcement action has taken place.									
B. Assist local landfill owners/operators with plans for future waste disposal needs and implementation of Subtitle "D" requirements.									

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
UNDERGROUND STORAGE TANKS									
I. UST Program Development and Implementation					3.0				SHWB
A. Implement UST installer rules	Ongoing				.2				
B. Maintain State funding mechanism	Ongoing								
C. Implement Transition MOA	1								
D. Submit application for State program authorization and implement an MOA			1		.2				
E. Apply for SFY 93 UST assistance				1	.1				
F. Maintain procedures for compliance monitoring and enforcement program	Ongoing				1.0				
G. Maintain UST notification data base	Ongoing				1.0				
H. Provide timely compliance assistance to 0/0 for phased-in requirements for release detection and financial responsibility	Pamphlets on closure, UST management, cleanup, etc. As needed and requested				.5				
I. Obtain technical assistance/training for State staff	As recommended				.25				
J. Provide technical assistance/training to local program implementation staff	Ongoing								
K. Implement program for UST installer permits	Ongoing				.25				

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SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
L. Implement UST installer/inspector license program	Ongoing					.25			
II. Compliance, Monitoring and Enforcement									SHWB, EPA
A. Identify, investigate and attempt to resolve violations of State and Federal rules with emphasis on leak detection violations	As required				.5	.3			
B. Advise and educate regulated community regarding compliance alternatives	2	2	2	2	.25				
C. Conduct UST compliance inspections	15	10	10	15	.25				
D. Conduct joint UST compliance inspections with EPA with emphasis on leak detection violations	2	2	2	2	.25				
E. Refer potential enforcement cases to EPA, in particular leak detection	As appropriate								
III. EPA Oversight									
A. UST program development	Ongoing					.2			EPA
B. Inspections	As needed								
C. Enforcement actions	As needed								
D. Implementation of MOA	Ongoing								
E. Assist State with contractual assistance in leak detection and compliance monitoring enforcement efforts and State program approval	As needed								
			TOTAL		7.55	.5	63,116	189,348	

SFY 92

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
LEAKING UNDERGROUND STORAGE TANKS TRUST FUND									
I. LUST Trust Fund Implementation			Total		5.5	.40	82,222	740,000	SHWB,EPA
A. Review and revise core program tasks	as outlined in LUST CA workplan				.2				
B. Submit SFY 93 LUST Cooperative Agreement application				1	.1				
C. Provide training/technical assistance for regulated community, affected industry & LGUs in corrective action procedures		1		1	.2				
D. Maintain corrective action status tracking system	ongoing				.8				
E. Develop transitional enforcement agreement between State and EPA outlining each agency's responsibility for enforcement actions		1			.1				
F. Implement corrective actions									
1. Emergency response	as needed				.3				
2. Site investigations/citizen complaint follow-ups	15	15	15	15	1.5				
3. Conduct CA plan review	as needed				1.5				
4. Initiate cost recovery actions	as appropriate				.5				
G. Report quarterly on 15th day following quarter end	1	1	1	1	.1				
H. Conduct CA streamlining efforts with EPA contractual assistance					.2		2,222	20,000	
I. EPA Oversight						.40			

PESTICIDE WORK PROGRAMS FOR THE FY 1992

BACKGROUND

The Agricultural and Biological Sciences Division (ABSD), of the Montana Department of Agriculture (MDA), has a responsibility to serve Montana agriculture and protect the environment and the health of the state's citizens. Toward this end, the ABSD administers a pesticide applicator and dealer licensing, permitting and certification program and a pesticide enforcement program.

Recertification schedules for all classes of pesticide applicators have been established. Farm applicators certified to use restricted-use pesticides are on a five year requalification cycle, with applicators in one of the five agricultural districts being recertified each year. Commercial applicators and dealers are on a four year recertification schedule. The applicator categories have been divided among the four year period, so not all categories are due for recertification or relicensing the same year.

The ABSD provides pest management services to producers, industry, government agencies and the general public. These services include providing information on integrated pest management procedures for specific cropping systems, recommendations on use of pesticides, identification and limited surveillance of pests; and the evaluation and resolution of the effects of pesticides on agriculture and the environment. The division also registers pesticide products (4,894) prior to their use in the state; licenses pesticide dealers (524), commercial and government applicators (1,376) and their licensed operators (1,131); licenses private applicators (8499) and regulates the use and sale of pesticides. The department's analytical laboratory provides regulatory and service analyses to other departmental programs and to the general public.

Pesticide specialists conduct routine inspections and investigate incidents and alleged violations to ensure compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticide Act (MPA). The ABSD maintains five field offices each staffed by a pesticide specialist to conduct enforcement activities and to provide testing and licensing services.

The MDA utilizes an enforcement response policy related to pesticide complaints and investigations as required by EPA.

The laboratory follows the EPA approved quality assurance program for all enforcement samples. Non-regulatory environmental samples follow quality assurance procedures if requested by the submitter. The laboratory participates in the EPA check sample and sample check analysis procedure programs.

A pesticide groundwater sampling program was started in FY 1984. Since then, new sample sites have been added each year, as well as re-sampling some positive wells, to determine what was happening to the residue levels. As groundwater monitoring strategies have become available from other states, as well as on the federal level, the MDA has modified its monitoring scheme so results obtained here can be compared with those obtained elsewhere. As health guidance information becomes available on other pesticides, monitoring may have to be increased or decreased, depending upon the quantity and degree of use in the state of any particular pesticide. The Montana Agricultural Chemical Ground Water Protection Act was passed by the 1989 Legislature and the provisions of the act went into effect January 1, 1990.

ABILITY TO IMPLEMENT PROGRAM

The MDA certifies that there are no known impediments to Montana's ability to carry out the proposed pesticide program.

The MDA's authority for registering pesticides, licensing and certifying applicators, licensing dealers and operators and conducting inspections and pursuing enforcement actions is provided for in the Montana Pesticides Act, Sections 80-8-101 through 306, MCA.

The MDA has participated in a Pesticide Cooperative Agreement with the EPA since 1979. Approval of the FY 1992-93 budget by the Legislature and the Governor provides authority to accept federal pesticide funds as the state lead agency for pesticides in Montana. The MDA proposes to continue the comprehensive cooperative enforcement program with EPA through inspections, investigations, pesticide sampling, laboratory pesticide analysis and enforcement actions. These activities would be continued under the quality assurance agreements made with EPA under previous grants. The MDA's pesticide specialists hold credentials and have the authority to uphold the mandates of the FIFRA as well as the Montana Pesticides Act.

The Montana Pesticides Act, Section 80-8-101,MCA provides that the MDA may cooperate with federal agencies in carrying out provisions of the act. The MDA has been granted "primacy" under Section 26 of FIFRA, as amended. It is the intent of the department to serve as the primary agency in conducting inspections, investigations, and sample collection and analysis in accordance with EPA approved procedures and to take effective action against violators. The outputs listed in the work program reflect those that are funded by the EPA grant. Monitoring for residues and potential environmental contamination resulting from the use of Specific Exemption (Section 18, FIFRA), Special Local Need (Section 24(c), FIFRA) and experimental use pesticides will continue in FY 1992.

The MDA's Field Services Bureau and Pesticide Analytical Laboratory will continue to maintain the quality assurance program for sample handling and analysis. The laboratory will provide pesticide analytical services to EPA and other states on a fee basis which will cover the cost of supplies, materials and communications.

OBJECTIVES OF THE PROJECT

- Ensure compliance with pesticide cancellations, suspensions and other major regulatory actions.
- Planning for and conducting enforcement activities for the revised worker protection standards and associated labeling requirements, based on publication of the final rule.
- Address changes to the certification plan which will be required as a result of revised provisions of 40 CFR 171.
- Develop and upgrade training modules and materials.
- Develop and implement generic and chemical-specific state management plans to protect groundwater resources.
- Provide protection of listed endangered species while minimizing unnecessary impacts on pesticide users.
- Develop program implementation strategies for the revised worker protection standards (WPS).
- Develop and implement outreach programs (in cooperation with the Extension Service) for the groundwater protection, endangered species and worker protection standards programs.

BENEFITS OF THE PROJECT TO THE APPLICANT AND THE EPA

The project will continue central coordination of pesticide activities in the MDA and will reduce duplication of operations and capital expenditures. The project will establish consistency in approach and objectives that are appropriate for the state. The regulated community in Montana will have the benefit of dealing with a state agency with six offices located throughout the state. This will provide rapid, local responses to problems and easier access to pesticide officials.

Communication will also be continued between EPA and Montana providing understanding of local and regional issues and differences in pesticide usage. The state can provide meaningful interpretation and implementation of national issues and priorities.

SUBMITTING REPORTS

Any report or other items required to be submitted to the EPA Regional Program Office will be submitted to the EPA Region VIII, Montana Office in Helena, Montana.

ACCOMPLISHMENTS IN FY 1991

I. Certification

The MDA's Technical Services Bureau met or exceeded all of the outputs listed under the FY 1991 certification program. Certification credentials were issued to 5,062 individuals, and information on regulatory and certification requirements was provided to the regulated community and the general public on a daily basis. Three revised training manuals were published in FY 1991 and two more have been revised and will be published early in FY 1992.

II. Enforcement

The MDA's Field Services Bureau met or exceeded the basic projected sampling and inspection outputs as agreed to in the 1991 media work plan. Where difficulties were encountered in meeting projections for some inspection types (experimental use, export) this was compensated for by exceeding inspections in other categories.

The Laboratory Bureau exceeded or met all of its projected outputs for FY 1991.

CERTIFICATION AND TRAINING OF PESTICIDE APPLICATORS - WORK PROGRAM ACTIVITIES FOR FY 1992

I. Work Program Requirements

A. Revisions to State Mechanisms for Certification

The MDA has implemented revisions to state mechanisms for certification (including examinations and training sessions) as previously agreed upon between the EPA project officer and the state. This effort also applies to any revisions agreed upon as a result of the FY 1988/89 joint reviews, but not fully implemented by FY 1991.

The lone remaining issue from the FY 1989 joint EPA/USDA private applicator certification review is initial private applicator certification at recertification courses. Private applicators may still be certified with a four hour training course and an ungraded quiz. The MDA and the Extension Service are still considering methods of resolution within existing resources.

B. Implementation of Changes to State Certification Programs

The MDA has implemented changes to state certification programs/plans which were agreed upon between the state and EPA as a result of the FY 1987 and subsequent discussions on state certification plans.

C. Review by the EPA Regional Program Office of Revisions of Certification/Recertification Examinations

Revisions to certification/recertification examinations will include review by the EPA Regional Program Office to assure that, in addition to the other topics required by federal regulations, the exams include information on:

1. Chronic health effects,
2. Groundwater contamination,
3. Endangered species,
4. Disposal methods,
5. Calibration of dispersal equipment,
6. Proper use, maintenance and disposal of personal protective equipment and clothing,
7. Applicator laws and responsibilities, and
8. Significant pesticide use problems identified through enforcement actions. When the EPA identifies areas in the examinations that need amendment, the MDA will work with EPA to make needed changes.

D. Meetings with the State Cooperative Extension Service

The MDA meets a minimum of twice each year with the state Cooperative Extension Service to discuss and evaluate the state pesticide applicator certification and training program. These meetings are normally held in September and January each year and the EPA project officer is notified of the dates and times of the meetings. A report of any applicable cooperative agreement decisions will be submitted to EPA with the mid-year and end-of-year reports.

E. Reporting of Certification and Training Projections and Accomplishments on EPA form 5700-33H

The MDA will continue to submit on a quarterly basis information on the number of training sessions participated in or monitored and the number of applicators certified and recertified (including the numbers certified and recertified for each category).

In addition, the MDA will submit an annual report as required under 40 CFR Part 171.7(d) on or before September 15, 1992.

F. Information About High Quality Training Programs and Training Materials; Information about Training Needs

The MDA will provide the following information in mid and end-of-year reports:

1. Information about specific training programs and/or training materials identified as being of high quality,

2. If the MDA is involved in development of training programs and/or materials, a detailed description of these programs and/or materials will be included in reports, and

3. The MDA will identify specific programs and/or materials needed for the training of certified applicators in the state.

G. State Specific Activities

There are no major unresolved problem areas in Certification and Training identified in mid-year and end-of-year evaluation reports of current and past project periods.

H. State Plan for Implementing the Revised 40 CFR 171

The proposed revised certification and training regulation, 40 CFR Part 171, was published as a notice of proposed rule making in the Federal Register on November 7, 1990. The MDA submitted comments on this regulation prior to the March 8, 1991 deadline. The final regulation is scheduled for publication in FY 1992. MDA will compare the FY 1992 certification and training requirements with the proposed federal regulation to identify changes that will be needed to implement the regulation. Within six months after the revised 40 CFR 171 becomes final, MDA will submit a plan and schedule to implement the changes in Part 171.

GROUNDWATER PROTECTION PROGRAM - WORK PROGRAM ACTIVITIES

I. Work Program Requirements

A. Completion of the Groundwater Protection Program Implementation Plan

The implementation plan will include the following components:

1. An outline of how MDA will accomplish the provision and/or requirements of the EPA Pesticides and Ground-Water Strategy pending the receipt of final guidance documents from EPA.

   The MDA has identified the state, federal and local government groups involved with groundwater protection, and has identified their roles and responsibilities in developing and implementing a pesticides in groundwater management plan.

   The MDA has established a working committee to serve as the point of contact for the development of a general management plan. This committee will formalize its schedule for developing the management plan early in FY 1992.

2. A framework for conducting groundwater activities, including whether the MDA will opt to develop a generic state management plan or chemical-specific management plans.

   The MDA will develop a generic management plan within six months after receipt of the final guidance documents from EPA. The MDA will develop the chemical-specific components of a management plan in response to designation from EPA regarding a particular pesticide on a case-by-case basis.

3. An estimated time line for the development of either type of plan within EPA guidelines.

   The MDA plans to have a draft Montana General Management Plan available by December, 1991. Chemical specific plans will be developed and implemented on an as-needed basis.

4. A description of preparations for communicating the strategy to users and to the public, such as identifying target audiences, establishing mechanisms for the dissemination of information, and conducting public meetings.

Administrative rules have been promulgated which require the MDA to:

a. Sponsor interagency and public meetings,

b. Consult with local, state and federal agencies, universities, agricultural chemical user groups and the public in meeting the objectives and content of the statewide general management plan and local specific management plans,

c. Periodically update management plans if new technologies, agronomic practices, or chemical usage warrants changes in the plans,

d. Develop and distribute (in cooperation with the Montana State University Extension Service) (MSUES) educational material on the subject of agrichemicals and groundwater protection, and

e. Organize and conduct seminars and symposia on the scientific and regulatory aspects of ground-water impairment by agricultural chemicals.

5. A description of plans to develop appropriate infrastructures, and/or memoranda of understanding with other state agencies.

The Montana Agricultural Chemical Groundwater Protection Act outlines the responsibilities of the MDA, DHES and MSUES. For other state agencies with groundwater responsibilities the MDA will develop memoranda of understanding and/or contracts to ensure cooperation and data and information exchange. These agencies include: Department of Natural Resources and Conservation (DNRC), Montana Bureau of Mines and Geology (MBMG), Department of State Lands (DSL), University System (MSU, University of Montana, and Montana Tech) and Montana Association of Conservation Districts (MACD).

6. A description of preliminary monitoring.

A pesticide groundwater sampling program was started in 1984. As manpower and resources have allowed, groundwater monitoring has been conducted in several of the major river valleys in the state. Monitoring of potentially vulnerable groundwater areas in the state is

part of an on-going program. Six permanent monitoring sites (selected based on the type of agricultural crops grown there plus several other criteria) have been established and will be monitored on a quarterly basis.

II. Implementation

After approval of the implementation plan and schedule by the EPA Regional Program Office, the MDA will initiate the activities defined in the plan.

III. Development of Generic Management Plan

The MDA will begin to develop a generic state management plan and will submit it for review and preliminary approval prior to the 1992 use season if the guidance documents from EPA have been received in a timely fashion. A copy of the generic management plan will be submitted to the EPA Regional Office according to the groundwater protection program schedule.

IV. Assessment and Identification of Areas Most Vulnerable to Groundwater Contamination by Pesticides

The MDA has begun to assess and identify the areas most vulnerable to groundwater contamination by pesticides in the state. This effort will require monitoring and mapping activities, and will also require coordination with other state agencies and the use of statutory authorities which are currently in place.

To the extent possible, the MDA will identify those aquifers where protection is most critical based on available criteria, which may include use, proximity to the surface, well location, population density, etc. Vulnerability may also be dependent upon climate, type of soil, extent of irrigation, range in pesticide type and application rates, point source contamination and other factors.

V. Outreach Activities

The MDA, in cooperation with MSUES, will develop and conduct an outreach campaign to explain to users and to the public how the EPA groundwater strategy affects them, how the strategy works, what the MDA is doing to respond to the strategy, and how they may be involved.

VI. Development of Chemical-Specific Management Plan Components

The MDA will develop the chemical-specific components or a chemical-specific management plan in response to

designation from EPA regarding a particular pesticide. The chemical-specific management plan or components will be developed and submitted to the EPA Regional Program Office on a case-by-case basis as specified by EPA, and according to the MDA groundwater protection program schedule.

ENDANGERED SPECIES PROTECTION PROGRAM - WORK PROGRAM ACTIVITIES

I. Work Program for Base Program

The MDA is participating in a base endangered species protection program. The base work program addresses the following activities:

A. Information Response System

The MDA will respond to pesticide user requests for county bulletins once they become available from EPA. The department will continue to provide endangered species information to agencies, users, and the public and will expand this public information effort once more definitive program materials and directives are received from EPA.

The department has developed an endangered species presentation that has been included in commercial and private applicator certification programs. The program is presented by department staff. This allows the presentation to be continually updated to include changes in endangered species restrictions or status. The presentation has information that includes: legislative history of species protection; provisions of the Endangered Species Act (ESA); proposed pesticide labeling program, and information about each species in Montana listed under the ESA.

Development of educational videos and educational brochures about endangered species protection is still planned. However, development has been delayed until final rules regarding endangered species protection have been published by EPA.

B. Compilation/Dissemination of Information on Federally-Listed Endangered Species

The work program will also address the following activities concerning federally-listed endangered species:

The department has and will continue to hold meetings with the Fish and Wildlife Service, Endangered Species personnel and the Montana Department of Fish, Wildlife and Parks concerning the Endangered

Species/Pesticides Program. The purpose of these meetings is 1) to discuss species habitats, range and other characteristics and pesticides that may impact the endangered species directly or indirectly and 2) to identify and discuss developing issues such as habitat identification, mapping and dissemination of information on new identified/listed species.

This activity will also include the review of habitat maps to ensure that they provide accurate descriptions of where endangered species must be protected and an on-going collection of information for map development and revision as well as information on pesticide use by county, region and state.

II. Additional Work Program Activities

A. Outline of MDA Endangered Species Protection Program

The department has developed an endangered species protection plan specific to the use of strychnine rodenticides for the control of ground squirrels in Montana. This plan was developed in consultation with the Montana office of the U.S. Fish and Wildlife Service so that endangered species concerns specific to the use of strychnine are included in the plan. The plan was submitted to EPA for review in March 1991. The proposed plan would modify product labels and provide for a supplemental bulletin. The product label modifications and supplemental bulletin would permit use of strychnine rodenticides while prohibiting use at certain times or in certain areas when or where endangered species may be adversely affected.

WORKER PROTECTION PROGRAM - WORK PROGRAM ACTIVITIES

I. Work program Requirements

A. Initial Outreach/Communication Effort

Within three to six months after the Worker Protection Standards (WPS) are published in the Federal Register, the MDA will reproduce and distribute informational materials which will be provided by the EPA Regional Program Office. These materials will be directed at employers, employee organizations, and other interested parties. The MDA will prepare a distribution list of employers and employee organizations that will receive the information at the earliest by September 30, 1991.

II. Implementation Strategy

A. Submission Time table/EPA Review

The strategy will be submitted by the MDA to the EPA Regional Office within eight months after the final WPS are published.

Within one month after receipt, the EPA Regional Office will provide the MDA with comments, if any. The MDA will address any comments within one month of their receipt and forward the revised implementation strategy to the EPA Regional Program Office.

B. Implementation Strategy Components

The Implementation Strategy will include at a minimum:

1. Outreach/Communication

The major focus of the worker protection program in FY 1992 is outreach. The development of an outreach/communication program as part of the implementation strategy is key to the success of the program. Office of Pesticide Programs (OPP) is developing outreach materials in the form of camera-ready copy and master video/slide programs that will be made available to states in a format for easy duplication and dissemination.

Initiate basic training and education of pesticide applicators and dealers on protection of workers handling pesticides or those workers who may be exposed post application.

Meetings between the Extension Service and the department will be held to discuss possible methods for implementing the worker protection regulations within three months of publication of the final rule.

Targeting key groups that may be impacted by the regulations are being discussed by the department, however, exact plans cannot be developed until the regulations are issued. The MDA will prepare a plan to notify constituents by December 31, 1991.

The department plans to attend EPA sponsored training on the worker protection rules.

2. Training

The EPA is developing national training/educational materials and guidance documents that will meet the requirements of the WPS. These materials will be made available to states in the form of camera-ready copy for written materials and masters for audio-visual materials. These materials are designed to promote consistent standards among state WPS programs and to avoid duplication of effort that would result if each state developed their own materials. A catalog of these materials will be forwarded to state agencies as soon as they are available.

3. Cooperative Relationships with Other Agencies

Contact with federal and state OSHA agencies will be made to generally discuss their current programs and the pending EPA worker protection regulations and possible program requirements. More comprehensive discussions will be held once the final regulations are issued and evaluated by the department.

4. Compliance Monitoring Strategy

Discussions on an enforcement strategy will be held with the department technical and enforcement program personnel. The department plans to negotiate worker protection inspections with EPA as it develops the compliance monitoring plan.

C. Implementation Schedule

Within ten months of the publication date of the final revised WPS, at the latest, the MDA will begin putting its implementation strategies into effect.

The 10-month requirement is based on this calculation:

8 months	MDA development of the implementation plan
1 month	Regional review and comment
1 month	MDA incorporates comments

SCHEDULING

The MDA schedule of the enforcement activities and the pesticide program activities and accomplishments planned for the grant period is located on the following pages.

REPORTING

I. Certification and Training Program

The reports concerning the MDA program for certification and training of pesticide applicators are submitted semi-annually according to the specifications outlined in item "e" of the Certification and Training Work program section and in the protocol for certification mid-year and end-of-year evaluations.

II. Program Initiatives

Reports on activities and accomplishments in the program initiative areas of worker protection, groundwater, and endangered species also are required at mid-year and end-of-year. These reports will be submitted by the MDA to the EPA Regional Program Office within 30 calendar days following the completion of the second and fourth federal fiscal year quarters.

III. Report Format

Reports will consist of a narrative summary of the activities and accomplishments during the reporting period. Projected accomplishments, updated schedules, and activities are reported according to the quarter in which they occurred (or will occur for the upcoming six month period). The reports will describe how the MDA has progressed in developing the program (implementation strategies, management plans, etc.) as well as how it has put its strategies and plans into effect and what has resulted. Each report will summarize the following elements:

A. Tangible outputs completed,

B. Possible outputs in the up-coming quarter,

C. An updated schedule for the up-coming quarter (noting any changes made from the original accomplishments schedule),

D. Problems and proposed resolutions, and

E. Utilization of funds (not an accounting of where funds have been spent, but an indication of how well funding is being utilized, e.g., if the MDA expects to have a surplus that could be used for additional activities, or if funding may be insufficient for planned activities).

The EPA Regional Program Office submits the mid and end-or-year reports to the Field Operations Division (H7506C), EPA Office of Pesticide Programs.

ACCOUNTING RECORDS AND FILING SYSTEMS

The MDA will maintain accounting records for funds awarded for each component, enforcement, certification and pesticide program activities under this agreement (including receipts, state matching contributions, and expenditures) in accordance with all applicable EPA grant regulations and generally accepted accounting principles.

Fiscal control and accounting procedures will be sufficient to:

- Track the expenditure of funds separately for the three components (enforcement, certification and pesticide program activities) of the consolidated pesticide agreement,

- Permit preparation of financial reports required by the regulations, and

- Permit the tracking of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

EVALUATION PLAN

Evaluation of the FY 1992 cooperative agreement by Region VIII personnel will be conducted at the mid-year meeting (January, 1992) and the end-of-year meeting (July, 1992).

ENFORCEMENT ACTIVITIES FOR FY 1992 WORK PROGRAM

I. Issue-Specific Compliance Monitoring Activities

A. Cancellations, Suspensions and Other Major Regulatory Actions

The MDA will conduct cancellation/sus- pension inspections and other compliance monitoring activities to assure compliance with major pesticide regulatory actions within the time frames specified in the nationally issued Compliance Monitoring Strategies. Inspections and other compliance monitoring activities for this priority area will address:

1. Major cancellation actions,

2. All suspensions under FIFRA Section 6,

3. FIFRA Section 3(c)(2)(B) suspensions, and

4. Other major pesticide regulatory actions (i.e. label improvement programs, etc.).

The state will track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions. Narrative reports will be prepared on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies. EPA form 5700-33H will be used to document compliance monitoring of cancellations and suspensions as a component of comprehensive inspections.

B. Worker Protection Enforcement Activities

1. Notification to Prospective Constituents

Between the publication date of the final rule and effective dates for compliance, the MDA will use the opportunity of inspections conducted under the cooperative agreement to notify perspective constituents of the provisions of the final rule and to ensure compliance with current worker protection requirements. This will be in addition to other methods for notification used by Montana (outlined in the compliance communication strategy described below).

2. Compliance Monitoring Strategy

The MDA will submit to Region VIII a Compliance Monitoring Strategy for worker protection, with the components discussed below, within six months of the publication of the final rule.

The state's strategy will then be reviewed and commented on by the EPA Regional Office within one month of receipt. The region's review will focus on whether the state's strategy is consistent with the national strategy and whether the proposed strategy is appropriate, given the state's particular situation. The MDA will then address the region's comments, if any, within one month of receipt and forward the revised strategy to the regional office.

At a minimum, the compliance monitoring strategy will include a compliance communication strategy, a description of interagency coordination and a targeting scheme as distinct components, as discussed below.

a. Compliance Communication Strategy

The compliance communication strategy for worker protection will describe the actions which the MDA will take using enforcement funds to communicate the enforceable provisions and effective dates of the worker protection rule.

The state will identify in the Compliance Communication Strategy the specific sectors of the regulated community that will be effected, explaining how and when the MDA plans to inform each sector of the requirements of the revised rules. The MDA will also discuss with the region the extent and quality of the information gathered in this area, based on the information resources available.

The MDA will inform the regulated community of its responsibility to comply with the Worker Protection Rule. In addition to inspections, the approaches and actions to be taken to communicate the enforceable provisions of the final rule and to be supported with enforcement funds will be described in the compliance communication strategy.

b. Inter-Agency Coordination

In Montana, seven native American reservations may eventually develop pesticide programs and assume responsibility for enforcing worker protection standards. None of them have been granted primacy under FIFRA to conduct pesticide programs at this time. No agencies other than the MDA have jurisdiction for enforcing EPA worker protection standards for pesticides.

The MDA is the lead agency for enforcement and will develop a mechanism, if necessary, for coordination with other agencies. The MDA has no plan at this time to develop written agreements with individual tribes.

c. Targeting Scheme to Ensure Compliance with the Worker Protection Rule

The MDA will develop and submit a scheme specifically for targeting inspections to

ensure compliance with the worker protection rule. Targeting will not be implemented until the effective dates for compliance have passed. The dates will be specified in the final rule.

These inspections will be comprehensive, targeted specifically for when and where activities regulated by the worker protection rule are most likely to take place.

3. Implementation of Compliance Monitoring Strategy

Within eight months of the publication date of the final Revised Worker Protection Standards, the state will begin to implement the compliance communication strategy component of the state's compliance monitoring strategy.

Once the effective dates for compliance with the Final Rule have passed, the targeting scheme will be implemented.

4. Inspectional Activity

a. Conducting Inspections

Once the compliance dates for the revised worker protection rule have passed, the MDA pesticide inspection activities will include monitoring for compliance with the new worker protection labeling requirements. Monitoring for compliance with worker protection requirements shall be another element of comprehensive inspections.

b. Incident and Complaint Investigations

Montana will also conduct investigations in response to incident and complaint reports.

c. Tracking

The EPA will track Section 26 and 27 referrals; the MDA will track tips and complaints, not referred by EPA, that result in inspections.

5. Training

The states will send appropriate personnel to available EPA-sponsored training sessions on the new Worker Protection Rule, provided that the state lead agency can obtain approval for employees to travel out-of-state.

6. Reporting

The state will specifically report on the implementation of their compliance monitoring strategy and the other worker protection enforcement activities described in this section. Two reporting mechanisms will be used to document the state's worker protection compliance monitoring activity:

a. Evaluation Reports

The regions will document Montana's worker protection compliance efforts as part of the mid-year and end-of-year evaluation reports.

b. Quarterly Accomplishments

The second mechanism will be through the quarterly reporting mechanism. Following the effective dates for compliance, the state's inspections performed under the cooperative agreement will include monitoring for compliance with the worker protection rule. If monitoring for worker protection requirements was not included as part of every remaining type of inspection, the MDA will explain why in the narrative section of the quarterly report.

C. Planning Enforcement Activities for Residue Removal Regulations

In preparation for enforcement of regulations promulgated under Section 19(f), FIFRA, Montana will plan for enforcement activities which will ensure compliance with these regulations. The MDA will outline proposed activities planned to ensure compliance with these regulation. This outline will be prepared by June 30, 1992, or after the federal regulations are proposed.

D. Enforcement Activities for Groundwater Protection

1. In FY 1992, the MDA will continue to monitor compliance with and enforce labeling as part of use, producing establishment, marketplace, and dealer inspections.

   In targeting use inspections, the state will take into account areas of high risk for groundwater contamination, along with how these areas overlap with locations of pesticide use.

2. The MDA will plan to identify, and describe enforcement authorities, capabilities, and activities, which will be used to assure compliance with the provisions of the state's groundwater management plan. A clear statement of the roles of different agencies if more than one agency within the state is potentially involved with enforcement activities for protection of groundwater from pesticide contamination will be included.

   This identification and description will be developed concurrently with the generic state management plan.

3. The MDA will consider the enforcement authorities available under other federal/state statutes, when it comes to contamination of groundwater or drinking water supplies, and coordinate enforcement activities with EPA and other state agencies, as appropriate, to make full use of other statutes where applicable.

4. The state will implement the aforementioned enforcement activities.

E. Enforcement Activities for Endangered Species Protection

1. Enforcement of the use limitations to be imposed to protect listed species will be carried out under the provision of FIFRA addressing misbranding and misuse. Products whose use requires limitations to protect listed species and which do not carry the necessary information on the product labeling, may be identified through routine inspections of manufacturing facilities and pesticide distributors and dealers or through information received regarding suspected misbranding. Products found to be misbranded (i.e., do not carry the required label language to protect listed

species) may be subject to enforcement action. In the field, pesticide misuse will be identified similarly through routine inspection and information provided regarding alleged misuse of a pesticide product.

In targeting use inspections, the MDA will take into account areas inhabited by endangered species, along with how these areas overlap with locations of pesticide use.

2. Once the final Endangered Species Protection Program is published by the agency, the state will plan for and implement appropriate enforcement measures. The MDA will comply with the National Compliance Monitoring Strategy for the Endangered Species Protection Program to be issued in FY 1992.

F. Section 6(g) Information Submittal and Pesticide Recalls

The MDA will help enforce the information submittal requirements under Section 6(g), FIFRA. The MDA will consider the information which they receive on quantities and locations of suspended or canceled pesticides in targeting future inspections. Montana will also enforce recall of suspended and canceled pesticides when applicable.

G. Exports

In FY 1992 the state will conduct pesticide export inspections, as indicated in the Pesticide Work Plan.

H. Certification and Training

The MDA will enforce the revised final certification and training regulations to be issued in FY 1992.

I. Lawn Care Activities

The MDA will review literature from lawn care registrants, manufacturers, distributors and professional applicators, and pesticide advertisements in magazines, newspapers, and telephone yellow pages to identify potential violations of FIFRA, Section 12(a)(1)(B) and (E), state advertising regulations, and the Federal Trade Commission Act. A log will be maintained of all periodicals or literature reviewed. The log will show the names, issues and/or dates of literature reviewed. Appropriate enforcement action will be initiated or referrals made to EPA or FTC for any violations.

II. Priority-Setting

A copy of the MDA's priority setting plan was included in the 1991 application. This plan has not been amended; however, priorities were updated for FY 1992.

Following are Enforcement Program Priorities for FY 1992 as identified by MDA field and administrative staff and the EPA:

A. Priorities Identified by Field Services Bureau Pesticide Specialists (listed in order of priority):

1. Develop consistency in pesticide records inspections including those for seed treaters,

2. Conduct initial records and use inspections of newly licensed applicators and dealers,

3. Provide inspector training on conducting interviews and writing reports,

4. Conduct routine inspections of the regulated community on a routine basis,

5. Conduct repeat inspections to assure that documented past violations are corrected,

6. Inspect applicators licensed in ornamental and turf pest control, particularly those from out-of-state,

7. Continue to investigate misuse of insecticides for predator control, and

8. Continue to investigate potential contamination of surface and groundwater, particularly that involving pesticides with longer residuals.

B. Enforcement Program Priorities Identified by MDA Administrative Staff (listed in order of priority):

1. Implement the addition of one staff member in the Helena office to conduct case review, supervise ongoing enforcement projects, coordinate training, and other duties,

2. Address the current salary level of Pesticide Specialists through revision of position descriptions and formal review by the Departments of Agriculture and Administration,

3. Provide bureau framework for conducting routine inspections of each member of the regulated community at no less than four year-intervals,

4. Continue to investigate legitimate complaints of pesticide misuse, damage, violations and incidents; incorporate an evaluation that will prioritize and help identify an appropriate response to each potential investigation,

5. Develop an enforcement tracking system for managing inspections, samples, enforcement actions, affected environments, compliance histories, etc.,

6. Develop and implement core training for bureau staff in cooperation with EPA; such training to address inspection and investigation procedures, safety, sampling, pesticide use, etc.,

7. Update the Field Services Bureau Quality Assurance Program and standard operating procedures for sampling, inspections, safety, investigations, and other subjects; and continue development of standard operating procedures for sample analyses,

8. Prepare to implement new regulations for residue removal being developed to implement Section 19, FIFRA; and

9. Train staff and develop procedures to implement lawn care activities including inspections and review of lawn care literature and advertisements.

C. Priorities Identified by the Environmental Protection Agency (no order of priority):

1. Helping to ensure compliance with pesticide cancellations, suspensions and other major regulatory actions, and

2. Planning for and conducting enforcement activities for the revised worker protection standards and associated labeling requirements, based on publication of the final rule.

III. Inspection and Sample Collection Activities

The outputs which the MDA proposes to accomplish during the agreement period are outlined in the inspection media work plan. The criteria that were used in defining these outputs included (1) state and federal priorities, and (2) the structure of the regulated community in Montana.

A. Categories of Inspections

Inspections will be conducted in accordance with the procedures set forth in the updated Pesticides Inspectors Manual. The categories of inspections and investigations to be conducted include:

1. Agricultural use,
2. Non-agricultural use,
3. Experimental use,
4. Producer establishments,
5. Market place,
6. Imports,
7. Exports,
8. Certified applicator records and
9. Restricted use pesticide dealer.

Federal facility inspections and lawn care inspections will be a subset of these.

B. Producer Establishment Inspections

A number of routine producer establishment inspections will be completed so that all producer establishments are inspected over time on a routine basis.

C. Federal Facility Inspections

The MDA will incorporate inspections of federal facilities into the plan for routine inspections so that federal facilities are inspected on the same rotation as other pesticide facilities. The MDA will evaluate all pesticide complaints involving federal facilities, and will conduct follow-up inspections where violations of state or federal laws are suspected.

D. Comprehensive Inspections

The MDA will conduct comprehensive inspections, addressing every element of each type of inspection where possible and feasible.

Lawn care inspections will be a subset of comprehensive non-agricultural use or follow-up inspections. Generally, routine inspections of lawn care applicators will be conducted on the same schedule as other applicator categories. The MDA will also evaluate all complaints of pesticide violations by lawn care applicators and will conduct follow-up inspections where violations of state or federal laws are suspected. At a minimum, 10 use or follow-up lawn care inspections will be conducted in FY 1992.

E. Strategies

The MDA will follow requirements related to inspections which are included in National Compliance Monitoring Strategies.

Narrative reports will continue to be prepared on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies.

F. EPA form 5700-33H

EPA form 5700-33H will be completed and include projections for the categories of inspections listed on the form.

G. Documentation of Inspections

Inspections will be conducted in accordance with the procedures set forth in the updated EPA Pesticides Inspection Manual.

The MDA will ensure proper documentation of inspections (affidavits, maps, photos, etc.).

H. Inspection Reports

Copies of all inspectional reports will be retained by the MDA for a reasonable period of time, but at least until any associated enforcement cases are resolved and closed. These reports will be available for examination by EPA.

I. Experimental Use Inspections

A number of EUP inspections will be conducted as indicated in the media work plan. EPA will require that permitees or participants in an EUP program in Montana provide reasonable advance notification of the intended dates, times, and sites of application. This information will be submitted to the MDA to assist in scheduling inspections.

IV. Quality Assurance

A. Quality Assurance Project Plan

The MDA has submitted an updated quality assurance project plan to EPA for review and approval.

In FY 1991 enforcement activities were conducted using the Quality Assurance Project Plan currently approved and submitted to EPA. Montana intends to update the plan, and had proposed to submit an updated sampling/analytical plan by June 30, 1991. The draft quality assurance portion of the analytical plan has been completed at this time, but the plan for field sampling has not been completed due to resource constraints. The MDA recognizes the need for updating this plan and this continues to be an enforcement priority for FY 1992, with completion scheduled by June 30, 1992.

B. Analytical Methods

Pesticide formulation samples collected for determination of product compliance shall be analyzed by the MDA laboratory, using the EPA Manual of Chemical Methods for Pesticides and Devices, Association of Official Analytical Chemists (AOAC) analytical manual (14th Ed.), the Collaborative International Pesticide Analytical Council Manual (CIPAC), or other standard analytical methods. All potentially volatile samples shall be verified by procedures spelled out in the NEIC Pesticide Products Procedures Manual or as otherwise specified in the Quality Assurance Project Plan.

Pesticide residue samples in support of misuse investigations shall also be analyzed by the MDA laboratory, using available FDA, EPA, USGS or other accepted methods available in the scientific literature or by the pesticide industry. All reported results will be accompanied by appropriate quality control parameters so as to allow evaluation of precision, accuracy, freedom from interferences and confirmation of pesticide (or metabolite) identity.

C. Cross Contamination Screening

The MDA shall establish and utilize a cross contamination screening program for pesticide formulations in accordance with the EPA Cross Contamination Guidelines.

D. Check Sample Program

The MDA shall participate in the National Enforcement Investigations Center (NEIC) Check Sample Program. The MDA will submit a report indicating the methodology used and the results of the analyses to EPA.

If the state fails to obtain the correct results, EPA and the MDA will reach agreement on appropriate follow-up activities.

E. Back up Analysis Procedure

The MDA may request back-up analyses from NEIC or other NEIC recommended laboratories, if necessary or requested by the Region.

F. Training of Analytical Chemists

EPA will provide training of state inspectors and analytical chemist, as necessary. Using cooperative agreement or other funds, the state will avail itself of EPA workshops, seminars and meetings on proper sampling, analytical procedures, instrumentation, methodology and quality assurance.

G. Laboratory Reviews

The MDA shall allow EPA representatives to conduct on-site laboratory visits to review state laboratory analytical capability and procedures, and to discuss areas needing improvement.

H. Provision of Analysis Results

The MDA shall send a copy of the results of any sample analysis made under the authority of FIFRA to that person from whom the sample was collected.

I. Submission/Retention of Reports

Copies of all analytical reports, associated raw data and other necessary records for samples collected shall be retained by the state and be available for examination by EPA, or be forwarded to the EPA Regional Office.

The analytical reports will be retained by MDA or the EPA Regional Office until the associated enforcement cases are resolved and closed out.

V. Formal Referrals

The state will conduct activities under FIFRA Section 26 and 27. Section 27(a) of FIFRA requires EPA to refer to the states any information the Agency receives indicating a significant violation of pesticide use laws. The priority areas for referral for FY 1992 are attached as Appendix E.

All pesticide use cases, identified as significant, will be referred to the MDA by EPA in writing, and will be formally tracked as set forth in the Final Interpretive Rule.

The MDA will commence appropriate enforcement action for cases, so tracked, within 30 days after completion of the investigation. This period may be extended, after negotiation, if required by the procedural characteristics of the state regulatory structure or the complexity of the case.

If the state has not reported on the investigative status within 30 days of the date of referral, EPA will contact the state to learn the results of the investigation and the state's intended enforcement response to any violations detected. An investigation should be considered adequate if the state has: (1) followed proper sampling and other evidence gathering techniques; (2) responded expeditiously to the referral; and (3) documented all inculpatory or exculpatory events or information.

If the region determines that the state's intended enforcement response to the violation is inappropriate, EPA will first attempt to negotiate an appropriate state enforcement response. If the state is unwilling or unable to alter its original enforcement response, EPA may bring its own enforcement action after notice to the state. That notice will summarize the facts relating to the state's enforcement response, discuss reasons for EPA's determination that the enforcement action is inadequate and state that EPA will initiate its own enforcement action. The Region will not initiate an enforcement action sooner than thirty (30) days after the state was notified.

VI. Enforcement Response, Case Development and Tracking Activities

A. Enforcement Response Policy

Montana submitted an updated Enforcement Response Policy (ERP) to EPA in FY 1990. The ERP has not been modified and will be followed during the project period of this cooperative agreement. The ERP will be updated and corrected to keep current with changes in the enforcement program and to correct any inaccuracies found in it.

In determining enforcement penalties and/or in negotiating settlement agreements, the yMDA will consider potential pollution prevention activities which a violator could undertake in exchange for an appropriate reduction in the enforcement penalty where applicable.

B. Case Development

The review of all inspection reports for the detection of possible violations and the initiation of appropriate enforcement action is an important part of every comprehensive pesticide enforcement program. The MDA will review the quality and adequacy of evidence gathered during the course of all investigatory activities performed under the cooperative agreement.

1. Violations of Montana's Law Only

The state will review the quality and sufficiency of evidence gathered in the course of all investigative activities performed under the cooperative agreement. If the evidence reveals a violation of only Montana's pesticide statutes, the MDA will pursue an appropriate remedy provided by state law.

2. Violations of Federal Law Only

Where evidence reveals a possible violation of federal law only, the state will forward the information to the EPA Regional Office within 30 days after completion of the investigation. All cases forwarded to EPA will include all evidence, inspection reports and/or forms, a brief narrative of the case, and a recommended enforcement response.

The MDA will prepare and make available to EPA, when requested, testimony and other evidence

pursuant to the procedures adopted by EPA. The MDA will provide witnesses for informal settlement conferences, public hearings, and appearances in a court of law, as the EPA requests.

3. Violation of Both Montana and Federal Law

If evidence reveals a violation of both state and federal law, the MDA may bring appropriate enforcement action under state law or refer the case to EPA for action under FIFRA.

The MDA will follow procedures outlined in the FY 1991 Grant Guidance in investigating and forwarding cases to EPA where violations of federal law are revealed that are not also violations of state law.

For all pesticide cases, for which the MDA determines that the most appropriate enforcement action is not available under state law, the MDA may refer such cases to EPA for enforcement action under FIFRA.

C. Cross Jurisdictional Situations

The MDA will continue to provide technical and program assistance to Tribes on pesticides, pests, enforcement, certification, and new program activities. Such assistance will include training, certification of applicators, investigation of misuse or improper sales, and information on new EPA initiatives, plans and strategies.

VII. Tracking

The MDA currently maintains enforcement information on dBase III + databases. The MDA will continue to develop improved databases, data entry procedures, and reporting in FY 1992.

The MDA will utilize its management system for tracking all inspections, violations found, and enforcement actions initiated. The tracking system will, at minimum, include the following elements:

A. The date of inspection,

B. The reason for inspection (routine, complaint),

D. The name of the person or firm inspected,

E. The violation found,

F. The summary of past compliance history,

G. The enforcement action taken,

H. The date of enforcement actions, and

I. The disposition of the action.

Under the aforementioned tracking system or separate system, the MDA will document and track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions of pesticides. Reports will be prepared on the inspections and enforcement actions taken after the suspensions and cancellations as specified in the applicable compliance monitoring strategies.

VIII. Reporting

The MDA will use EPA Form 5700-33H for reporting the required comprehensive inspection and sample collection accomplishments under the FIFRA Enforcement Cooperative Agreement. A narrative report may need to accompany the reporting form to discuss any pertinent state enforcement activities not addressed on the form, any program highlights and/or any program problem areas.

Completed compliance monitoring reporting forms will be submitted quarterly. These reports showing inspectional activities and enforcement actions accomplished shall be submitted by the state to the EPA Regional Office within 30 calendar days following the completion of each state fiscal year quarter. Quarterly reports will be submitted by October 30, January 30, May 30 and July 30 of each year in accordance with the state fiscal year.

Reports will be prepared on inspections and enforcement actions taken after "major pesticide regulatory actions" as specified in the applicable compliance monitoring strategy.

A. Accounting Records and Filing Systems

The MDA will maintain accounting records for funds awarded for each component under each agreement (including receipts, state/tribal matching contributions, and expenditures) in accordance with all applicable EPA grant regulations and generally accepted accounting principles.

IX. Evaluation Plan

Evaluation of the enforcement work program will be conducted in January and July within 30 days of the FY 1992 mid-year and year-end.

X. Unresolved Problems

To address the need for an additional employee to conduct case review and staff training, the MDA requested approval through the state legislative process to add one position. Approval was granted for a Pesticide Specialist III to be hired beginning July 1, 1991.

The MDA also addressed the need for upgrading salaries of inspectors. Budgetary authorization was granted to upgrade salaries one grade. Before this can be implemented, updated position descriptions will be reviewed by the Montana Department of Administration. Inspectors will be paid at a level commensurate with this review.

The Laboratory Bureau has implemented a procedure for counting laboratory samples. This procedure will account for all samples including quality assurance program samples analyzed by the laboratory and will provide a satisfactory method for the laboratory to track samples. Samples collected in the field continue to be counted as field samples.

XI. EPA Support to the MDA

A. Inspector Training

The EPA will coordinate the basic training needed to qualify inspectors to properly conduct comprehensive inspections, collect samples, collect evidence; prepare inspection reports, and other components of an enforcement program. The MDA will send untrained inspectors to basic training scheduled in Montana, and will consider sending them to such training scheduled in surrounding states depending upon availability of travel funds. EPA will notify the MDA of any Basic Inspector Training in Regions VIII or X. Currently, the MDA is in need of training for four new staff members.

B. Safety Training

The MDA feels that pesticide inspectors will respond to incidents involving hazardous substances and therefore, should have training that meets U.S. Occupation Safety and Health Administrations requirement of a minimum of 40 hours of training for

hazardous site workers (29 CFR 1910.120). The EPA will inform the MDA of any training and training updates that meet this requirement in Regions VIII or X.

C. Federal Credentials

The EPA will provide federal credentials to newly hired MDA enforcement staff within a reasonable time after receiving a request from the MDA. The MDA will include a suitable photo in its request for each federal credential.

D. Training for EPA Initiatives and Compliance Monitoring Strategies

The EPA will provide enforcement procedures training for new EPA initiatives and compliance monitoring strategies (worker protection, groundwater, residue removal, endangered species, information submitted under Section 6(g), FIFRA, lawn care activities).

Contact Persons:

Environmental Management Division, MDA 444-2944

Gary Gingery - Administrator
Laszlo Torma - Laboratory Bureau Chief
Steve Baril - Field Services Bureau Chief
George Algard - Technical Services Bureau Chief

Montana EPA Office 449-5486

Eric Finke - Chief, Air, Hazardous Waste & Toxics Branch
Jay Sinnott- Environmental Engineer

Special Projects *

ENFORCEMENT

Laboratory Services Proposal

The department proposes a continuation of the laboratory services project for analysis of pesticide samples submitted by state pesticide agencies under their cooperative agreements with EPA. The funding requested is $47,719 for federal fiscal year 1992. The number of samples projected for this project range from 80-130 (sample numbers may vary depending upon the type of pesticide to be analyzed and the number received from a state). Reference Pesticide Media Work Plan section I for sample numbers and budget.

Enforcement Workshop for SLA's and Laboratory Directors

The department proposes a fall meeting, in cooperation with EPA, for pesticide laboratory directors and SLA pesticide enforcement personnel and appropriate EPA personnel. The meeting would be held this fall in Bozeman, MT. The actual meetings would involve a one day meeting for the laboratory directors and concurrent meeting for the SLA enforcement personnel. Appropriate EPA/NEIC personnel could attend either meeting. The meeting on the second day would include state laboratory and enforcement personnel, EPA and NEIC personnel. The department, via the cooperative agreement, will pay the airline expenses of the state laboratory and SLA enforcement personnel. Additional costs to be paid by EPA funds includes meeting room costs, meeting agenda, reports and training documents. Each state representative would be responsible for their own room, meals and related expenses.

Quality Assurance Plan

The department will develop a model Quality Assurance Plan for state pesticide laboratories. This proposed QA project plan will include the basic elements and requirement of the "Interim guidelines and Specifications for Preparing Quality Assurance Project Plans", 12/29/80, QAMS-005/80. The plan will be comprehensive covering all the FIFRA related programs.

Development of the model project plan will utilize the expertise of the laboratory manager, 3 chemists involved with pesticide chemistry activities and major analytical instruments and the laboratory sample custodian. The department will also utilize the pesticide manager for field enforcement, technical services and the administrator of the division in developing and approving the plan.

* Reference Pesticide Media Work Plan for information on FTE's and budgets.

The department's schedule for development of the plan is as follows:

1. within six months of the grant award, the first draft would be available for review by the department and the technical oversight committee;

2. the second draft would be completed within 2 to 3 months for final committee evaluation; and

3. the document would be finalized and ready for printing within the next 2 to 3 months.

This schedule may have to be modified to ensure the plan is available by June 1 for inclusion with the 1993 pesticide grant guidance.

CERTIFICATION

The department will update its certification program to meet the new EPA certification regulations. This will require modifying the department's computer system for issuance of new certificates to pesticide applicators and dealers.

The funding for this project amounts to $37,874 for a two year period beginning October 1, 1991. The first year the computer system would be modified for issuance of new certificates to meet EPA certification standards and to accomplish initial data entry once the revised system is implemented. The second year the certification data will be transferred to the enforcement tracking system. A 1/2 time clerk to accomplish the data entry and prepare revised application forms and related certification documents is included in the proposal. The project will be completed by September 30, 1993.

GROUND WATER PROGRAM

GIS System

The department will purchase a computer for electronic acquisition and storage of geographic information and for integrating existing and forthcoming data from other agencies for the state pesticide ground water protection program. This purchase would also include ARC/INFO software, a table, chair and other minor items such as a surge protector. Much of the information the department needs is available in digital format from USGS, SCS, Montana Bureau of Mines and Geology and the University System.

The GIS system will assist the department in development of specific pesticide management plans for protecting vulnerable sites and expanding monitoring and resolution of problems associated with pesticides and ground water vulnerability.

Having a GIS system in Helena will allow the department to interface with NRIS (state library), the Department of Natural Resources and Conservation and the USGS existing data bases which are in the ARC/INFO format. This will be invaluable in helping the department to develop land use, pesticide use, soil type and aquifer delineation maps for areas that require the development of a special management plan. It is our understanding that EPA will also be using the ARC/INFO format to input national ground water data. The purchase and operational aspects of the GIS system will be in place by June 30, 1992.

Ground Water Level Monitoring Device

The department will purchase a Solinst Water Level Monitoring Device. This device will assist the department in monitoring the state's water levels in shallow aquifer systems at selected sites on a regular basis over time.

Pesticide Disposal/Ground Water Plan

The department proposes to develop a plan for disposal of pesticide and pesticide containers and for the establishment of pesticide storage and mixing/loading site standards in Montana. The state pesticide ground water monitoring project conducted in Montana since 1984 has shown that mixing/loading sites can be point sources for pesticide contamination of ground water. A number of the mixing/loading sites the department has looked at have been used for this purpose for, in some cases, 20-30 years. There is a concern that these sites are, or could become, point sources for pesticide contamination of ground water.

The establishment of standards for storage and mixing/loading sites would assist in: 1) preventing these point source problems as applicators build new facilities or other facilities are reconstructed; 2) reducing or eliminating problems with facilities or sites where unusable pesticides are stored; 3) reducing or eliminating improper "storage" or disposal of pesticide containers; and 4) preventing possible contamination of vulnerable ground water aquifers.

The department proposes the funding for this project be allocated for the time period October 1, 1991 through September 30, 1993. The department would employ a specialist and a 1/2 time clerk to assist in the two year project.

SFY 92
PESTICIDE MEDIA WORK PLAN

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
I.	ENFORCEMENT PROGRAM							
	A. Agricultural Use Inspections	16	35	.39		2,344	13,276	MDA
	B. Agricultural Follow-up Inspections	20	40	.44		2,639	14,954	MDA
	C. Non-agricultural Use Inspections	7	15	.13		781	4,425	MDA
	D. Non-agricultural Follow-up Inspections	7	15	.17		1,023	5,798	MDA
	E. Experimental Use Inspections	2	5	.04		242	1,373	MDA
	F. Producer Establishment Inspections	12	20	.17		1,023	5,798	MDA
	G. Marketplace Inspections	25	50	.14		848	4,806	MDA
	H. Import/Export Inspections	1	2	.01		54	305	MDA
	I. Certified Applicator Records Inspection	25	55	.15		902	5,112	MDA
	J. Restricted Use Sales-Pest. Dealer Insp.	25	50	.14		848	4,806	MDA
	K. Samples taken in the field	73	165	.46		2,760	15,640	MDA
	L. Laboratory Formulation Samples *	20	84	.51		1,866	10,575	MDA
	M. Laboratory Residue Samples *	220	385	5.34		19,833	112,387	MDA
	N. EPA Pesticide Samples *	41	82	1.14		8,346	47,289	MDA
	* Includes Quality Control Analysis		SUBTOTAL	9.23		$43,509	$246,544	

SFY 92
PESTICIDE MEDIA WORK PLAN

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
II.	SPECIAL ENFORCEMENT							
	A. Worker Protection Compliance Strategy			.56		4,288	24,300	MDA
	B. Update of Priority Setting, Enforcement Response Policy, Quality Assurance for Field Enforcement Actions & SOP's for Water Samples, & Develop Compliance Strategies on Ground Water & Endangered Species			0.80		*	*	MDA
			SUBTOTAL	1.36		$ 4,288	$ 24,300	
*	These activities will be accomplished using state funds and some federal funds. Federal funds will be used for enforcement.							
III.	CERTIFICATION PROGRAM							
	A. Issue Certification Credentials		5,000	1.14		29,929	29,929	MDA
	B. Monitor Certification Program			.36		9,287	9,287	MDA
			SUBTOTAL	1.50		$ 39,216	$ 39,216	
IV.	DEVELOPMENT PROGRAMS							
	A. Worker Protection			.70		4,985	28,249	MDA
	B. Endangered Species			.10		1,342	7,602	MDA
	C. Ground Water			1.00		13,093	74,194	MDA
			SUBTOTAL	1.80		$ 19,420	$ 110,045	
V.	SPECIAL PROJECTS							
	A. Enforcement Workshop (SLA's and Laboratory)			0.07		3,529	20,000	MDA
	B. Ground Water GIS & Equipment			0.10		8,929	50,600	MDA
	C. Ground Water Pesticide Disposal			3.39		19,750	111,908	MDA

SFY 92
PESTICIDE MEDIA WORK PLAN

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
	D. Certification Revision			0.70		27,000	27,000	MDA
	E. Quality Assurance Plan			0.15		1,235	7,000	MDA
			SUBTOTAL	4.41		$ 60,443	$ 216,508	
VI.	REPORTS							
	Submit Summaries of Enforcement and Certification Data within 30 days of the end of each quarter.	Quarterly	Quarterly	.50		----	----	MDA
VII.	EPA OVERSIGHT (Includes technical assistance, mid-year and annual evaluation, grant support, Section 18 and 24(c) support, etc.)				0.50	----	----	EPA
			TOTAL	18.80	0.50	$166,523	$634,613	

AIR

The Big Sky Country is truly what its name implies, yet there are places where the quality of air is a fragile resource. The plains east of the Rocky Mountains provide few obstructions to the sea of air that flows across the land, but in western, southern and central Montana, where various mountain ranges form valleys, air sometimes is trapped in layered inversions, causing degradation.

In addition to inversions and natural sources of contamination, man also plays a part in altering air quality. In urban areas throughout the state, such things as street dust, smoke from wood stoves and industrial emissions contribute to lowering air quality and visibility. In rural areas the largest contributors to air quality degradation include unpaved roads and mining operations.

Montana's air quality program can be divided into four parts: permits, inspections and enforcement, implementation plans and air quality surveillance. The combination of these activities provides for a coordinated and comprehensive program of monitoring, problem prevention, problem correction and enforcement.

In order to prevent future air quality problems, Montana relies primarily on its permitting program. This program requires that all significant sources of air pollution must obtain a permit prior to construction. Montana requires a permit for any source which has the potential to emit more than 25 tons per year of any air pollutant (except lead - 5 tons/year). To augment this program and to provide national consistency, Montana has also adopted the federally mandated Prevention of Significant Deterioration (PSD) rules. This program has EPA approval and operates in lieu of the federal program. The DHES is also proceeding with the development of an operating permit program, with associated permit fees, to meet requirements in the Federal Clean Air Act Amendments (CAAA) of 1990.

One of the most difficult areas in air pollution control is to bring areas which exceed ambient air quality standards into compliance. This is usually accomplished by the development of plans for each area not in compliance with the standard. The sum of all of these plans, permit rules, emission standards, etc. is known as the State Implementation Plan (SIP). Montana submitted a SIP revision to incorporate the federal ten micron (PM-10) particulate standards in FY 1988. Area specific SIPs for each PM-10 nonattainment area are being developed and will be submitted by November 15, 1991. Since Montana has 11% of the nation's PM-10 problem areas, the SIP development process requires a significant commitment of resources. In addition, Montana must revise the existing Carbon Monoxide (CO) SIP in Missoula to meet CAAA requirements (ie, implementation of an oxygen fuels program). In October 1988, the EPA notified the

state that the East Helena Lead SIP was substantially inadequate to achieve ambient air lead standards. The CAAA also require the East Helena sulfur dioxide (SO2) SIP to be updated and revised to meet new federal guidelines. During FY 1992, the department will be addressing preparation of PM-10 SIPs and revision of CO, SO2 and lead SIPs. It should be noted that development of new and revised implementation plans for these areas is an immense effort which requires public input and has a significant impact on Montana communities and industries. The EPA has also notified the DHES that some portions of the overall Montana SIP may be deficient and will require update and revisions.

Ambient air quality monitoring is also an important part of any air quality program. Montana operates more than 100 samplers throughout the state in order to adequately assess the air quality of the state. Significant efforts will continue to be focused on meeting PM-10 and other nonattainment area monitoring requirements; however, because of resource limitations, all monitoring objectives may not be achieved. Montana's monitoring program requires the collection of high quality data and it is committed to using the EPA quality assurance criteria as a minimum. The monitoring network typically generates 17,000 laboratory analyses, 4,000 samples, and 180,000 hourly field values per year.

As a means of determining compliance with emission standards at industrial facilities, the DHES conducts a regularly scheduled inspection program. If violations are found, then further enforcement action may follow. The options for enforcement include: requests for voluntary compliance, office conferences, hearings before the Board of Health and Environmental Sciences, Notice of Violation and Order to Take Corrective Action, and civil or criminal penalties. The follow-up enforcement for each violation is case-by-case, but follows the State/EPA Enforcement Agreement.

A significant factor in the growth and activities affecting Montana's Air Quality Program is the passage of the CAAA of 1990. These amendments will have far reaching impacts on the nation and on Montana. Some of the areas addressed in the new laws include nonattainment area planning, operating permit requirements, air toxics control and expanded enforcement authority.

In summary, Montana's air program will continue to focus heavily on SIP development and revision during FY 1992. Certain other programs will receive a lower priority to support SIP work; however, core programs (i.e., permitting, inspections and enforcement, monitoring) will be continued at a maintenance level to assure a viable air program. The FY 1992 Air Quality Media Work Plan reflects the lack of resources in Montana's Air Program by attempting to limit objectives and milestones to those that can be realistically achieved.

Contact Persons:

Air Quality Bureau, DHES (444-3454)
Jeff Chaffee, Chief
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Harry Keltz, Supervisor, Engineering and Enforcement
Stan Sternberg, Supervisor, Operations

EPA Montana Office (449-5414)
Eric Finke, Chief, Air, Hazardous Waste and Toxics Branch
Kris Knutson, Environmental Scientist

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
SIP DEVELOPMENT (4.9)			$230,608		
A. CO/Ozone		1.0			
1. Promulgate CO nonattainment area boundaries	7/12/91			EPA	
2. Comment on Missoula CO Inventory Preparation and QA Plans	8/91			EPA	
3. Finalize Missoula CO Inventory Preparation and QA Plans	10/91			STATE	
4. Develop conformity determination procedures Submit draft for EPA review	8/92			STATE	
5. Develop draft oxy fuels program regulations Submit to EPA for review	4/92			STATE	
6. Submit draft baseyear Missoula CO inventory to EPA for review	6/92			STATE	
7. Propose oxy fuels regulations for hearing	7/92			STATE	
8. Make attainment determination for Billings and Great Falls transitional areas Request submittal of maintenance plan (due in one year) if areas have attained CO NAAQS	6/92			EPA	
9. Provide comments on draft Missoula CO inventory	8/92			EPA	
10. Propose conformity determination procedures for hearing	9/92			STATE	
11. Assess conformity of transportation and non-transportation related actions as applicable	Ongoing			STATE	
12. Continue implementation of existing CO SIP control measures per the savings clause of the 1990 Clean Air Act Amendments	Ongoing			STATE	
13. Develop and submit CO SIP RFP report as required by the Clean Air Act Amendments	9/30/92			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
B. PM-10		1.6			This FTE estimate assumes that the PM-10 SIPs will be complete and approvable as submitted.
1. Revise PM-10 SIPs for Butte, Columbia Falls, Kalispell, Libby, and Missoula (to include provisions for contingency measures*, test methods, and NSR)					*Contingency measures will not be submitted by November 15, 1991.
a. Complete review of all draft SIPs for initial nonattainment areas	9/01/91			EPA	
b. Conclude public hearings and compile revised SIPs for adoption	11/15/91			STATE	
c. Adopt revised PM-10 SIPs	11/15/91			STATE	
d. Submit SIPs to EPA for approval	11/30/91			STATE	
2. Finalize nonattainment designation for Thompson Falls	12/01/91**			EPA	**may be as early as 9/1/91; dates for item B.7 will be adjusted accordingly
3. Finish completeness review of submitted PM-10 SIPs	1/15/92			EPA	
4. Propose approval/disapproval of initial nonattainment area SIPs	5/15/92			EPA	
5. Determine completeness of PM-10 NSR permit SIPs	8/30/92			EPA	
6. Develop PM-10 SIP for Thompson Falls (including provisions for contingency measures and nonattainment NSR)					
a. Complete all CMB sampling	5/01/91			STATE	
b. Complete CMB sample analysis and submit report to EPA for review	7/15/92			STATE	
c. Submit final draft of emission inventory	8/01/92			STATE	
d. Submit draft SIP to EPA for review	9/30/92			STATE	
7. Submit redesignations of unclassified areas to attainment	9/30/92			STATE	No resources allocated.
8. Provide guidance on PM-10 NSR, redesignation, maintenance, BACM	Ongoing			EPA	
9. Provide technical assistance on all aspects of PM-10 SIP development	Ongoing			EPA	
C. Lead - East Helena		0.8			This FTE estimate assumes that interim products and the final SIP will be complete and approvable as submitted.
1. Complete modifications to deficient regulations - Subchapter 8, Ambient Standards	2/92			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
2. (*)Complete report on 1091 and 2091 CMB data	10/91			STATE	(*)Indicates item was in FY 91 SEA: carried over to FY 92 if not met in FY 91.
3. (*)Complete final emission inventory	10/91			STATE	
4. (*)Complete model reconciliation	10/91			STATE	
5. Select lead control strategies; Demonstrate adequacy of lead SIP via modeling	10/91			STATE	
6. Develop draft lead SIP	11/91			STATE	
7. Conduct public hearing on lead SIP	1/92			STATE	
8. Submit Lead SIP to EPA	2/92			STATE	NOTE: A 60-day extension has been requested.
9. Lead SIP Completeness Determination	4/92			EPA	
10. (*)Statewide - Identify sources of lead with emissions above 5 tons/yr; submit emission inventory to EPA	10/91			STATE	
D. SO2		0.8			This resource estimate assumes significant support and full cooperation from ASARCO.
1. (*)Evaluate existing regulations against EPA guidance for federal enforceability; review Region VIII comments; (schedule for reg correction will be part of SIP workplan)	10/91			STATE	(*)Indicates item was in FY 91 SEA; carried over to FY 92 if not met in FY 91.
2. Continue East Helena SO_2 SIP Progress according to SO_2 SIP Workplan (workplan should be final):	10/91			STATE	East Helena schedule to be revised upon acceptance of workplan.
a. SO_2 Emission Inventory Data Collection (source surveys for fuel usage, sulfur in fuel, etc.)					
b. Continue SO_2 ambient monitoring					
c. Continue meteorological monitoring (underway for Lead SIP)					
d. Address problems with SO_2 monitors					
e. Enter SO_2 data into AIRS					
f. Develop protocols for EI field testing and dispersion modeling					
g. Comment on protocols				EPA	
h. Submit schedule for GEP Stack Height Demo					
i. Conduct SO_2 EI field work					
3. Complete SO_2 GEP stack height demo.	10/91			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
4. Complete SO_2 emission inventory	11/91			STATE	
5. Select SO_2 control strategies; Demonstrate adequacy of SO_2 SIP via modeling	12/91			STATE	
6. Correct deficient SO_2 regulations	12/91			STATE	
7. Develop draft SO_2 SIP	1/92			STATE	
8. Conduct public hearing on SO_2 SIP	4/92			STATE	
9. Submit SO_2 SIP to EPA	5/92			STATE	
10. SO_2 SIP Completeness Determination	7/92			EPA	
E. New Source Review		0.5			
1. Revise NSR/PSD regulations:					
Submit draft NSR/PSD regulations to EPA and prepare for public hearing.	7/91				
Adopt and submit to EPA revised NSR/PSD regulations for SIP approval.	1/92				
2. Submit to EPA NSR revisions to include all NSR regulatory changes (including those mandated by the 1990 CAAA) for PM-10 nonattainment areas.	6/30/92				
3. Revise all NSR and PSD regulations, as necessary, to add new EPA promulgations. Submit revisions within nine months of effective date.	Ongoing				
4. Develop and complete regulation revisions to address new and modified NESHAPS and NSPS regulations which have been promulgated through July 1, 1991.	Ongoing				
F. NOx		0.2			
1. (*)Prepare report on increment consumption since February 8, 1988; submit to EPA.	10/91			STATE	(*)Indicates item was in FY 91 SEA; carried over to FY 92 if not met in FY 91.
2. (*)Develop NO_2 tracking system.	10/91			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
3. Ensure that air quality modeling analyses prepared for major source permit applications consider minor source emissions since the minor source baseline date.	Ongoing			STATE	
MONITORING/DATA PROCESSING (6.9)		6.9	$324,732		
1. Submit to EPA an equipment replacement plan and summarize commitment of resources.	11/15/91				
2. Review Quality Assurance Plan and SOPs and submit report.	07/30/92				
3. Submit Network Review per Region VIII guidance.	09/01/92				
4. Operate Air quality Network consistent with Network Review and QA Plan.	Ongoing				
5. Continue ambient lead monitoring around primary smelter.	Ongoing			STATE	
6. Continue meteorological monitoring around primary smelter.	Ongoing			STATE	
7. (*)Begin monitoring for lead at newly identified sources, as applicable.	10/91			STATE	(*)Indicates item was in FY 91 SEA; carried over to FY 92 if not met in FY 91.
8. Submit quarterly air quality monitoring reports to AIRS-AQS within 90 days after end of quarter.					
9. Submit AIRS-AQS Completeness Report and a data anomaly report within 120 days. Assure 75% completeness of each parameter per site per quarter.					
10. Continue SLAMS/special purpose monitoring in unclassifiable areas to determine status.	9/30/92			STATE	
11. Submit AIRS-AQS SLAMS report (electronically).	07/01/92				
12. Apply for advanced EPA approval of any proposed monitoring network modification.					
13. Attend EPA monitoring workshop if scheduled.					
14. Submit quarterly precision and accuracy data to AIRS-AQS within 90 days after the end of each quarter.					
15. Notify EPA in writing of any NAAQS exceedances within 45 days of exceedance excluding nonattainment areas.					

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
16. Conduct and report on performance and system audits on private industry monitoring programs.					
17. Participate in National Performance Audit Program					
18. Prepare and submit project monitoring plans for all special studies at least 60 days before implementation.					
19. Include at least two saturation monitoring studies.					
20. Submit final project report for special studies within 90 days.					
21. Conduct monitoring and report ambient lead data from sites around primary smelters (East Helena).	Ongoing				
22. Continue to identify other sources of lead pollution. Identify lead monitoring needs if any.					
23. Complete documentation and or updating of all active monitoring sites. Send hard copy reports with pictures to EPA.	03/01/92				
24. Enter site information into the AIRS-AQS site files for all active sites. Enter shut down dates for all inactive monitors/sites.	05/01/92				
VISIBILITY		0.0			($2005 to WESTAR)
1. Conduct periodic evaluations of Visibility SIP					
2. Participate in visibility transport commissions as appropriate					
AIR TOXICS (0.3)*		0.3	$ 14,119		
1. Prior to interim approval of operating permit program, review and comment on applications for early reduction program under Sec. 112(i)(5) and subsequent rule makings. After interim or final approval of the operating permit program, process fully applications for early reduction program.	As needed				State has not agreed to accept full early reduction review responsibility.
2. If permit program approved, implement modification provisions in Sec. 112(g) pursuant to guidance.					
3. Submit midyear and end of year reports on transition from MYDP to permit program.					

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
4. Develop a proposal outlining strategies to reduce risks from air toxics emissions by area sources in urban areas.					
5. Assess need for air toxics monitoring; submit findings report to EPA.	09/30/92				
6. Update NATICH database as needed.					
* If early reductions application review or other significant air toxics contingencies occur which would require additional resources, the SEA will have to be renegotiated in order to fulfill these items.					
OPERATING PERMIT PROGRAM (0.9)		0.9	$ 56,951		
1. Update and submit if needed, a schedule with milestone for development of operating permit program					
2. Continue development of operating permit program; implement permit fees					
3. Complete activities to get the necessary enabling authority to implement program					
4. Continue efforts to obtain the necessary staff to administer the operating permits program and provide the necessary training sources					
5. Attend applicable EPA workshops on operating permit program development					
6. Submit Small Business Technical and Environmental Compliance Assistance Program Plan					
7. Submit quarterly progress report on operating permit program including small business programs					
ENFORCEMENT AND COMPLIANCE MONITORING (7.7)					
A. Compliance Inspections:		1.4	$347,787		
1. Pursuant to the requirements of the 1990 revised Compliance Monitoring Strategy (CMS), negotiate with EPA to determine a targeting method for and develop the list of sources to be inspected in FY 92. Prepare an approvable inspection plan, which states the objectives of the inspection plan, identifies Group I and II sources by name and AFS number, describes the method used to rank sources, justification for substitution of	12/31/91			STATE	

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
Group II for Group I sources, the number of inspections at each source to be inspected, and the estimated resource allocation for Group I and Group II sources.					
2. Conduct Level 2 inspections at the frequency agreed to for 100% of the sources identified in the 1990 CMS Inspection Plan.	9/30/92			STATE	
B. Compliance Tracking and STARS Reporting:		1.0			
1. Provide data to AFS which will allow EPA to identify all Strategic Targeted Activities for Results System (STARS) sources, which include: Class A VOC sources and all VOC NSPS sources in Ozone nonattainment areas; Class A PM-10 sources and all PM-10 NSPS sources in PM-10 nonattainment areas; Class A SO2 sources and SO2 NSPS sources in SO2 nonattainment areas; Class A lead (Pb) sources and all lead (Pb) NSPS sources in lead (Pb) nonattainment areas; and nontransitory NESHAP sources.	Bi-weekly			STATE	Resource limitation may prevent bi-weekly updates to AIRS.
2. Provide data to AFS which will allow EPA to identify all national priorities sources, which include: sources emitting VOC, PM-10, SO2, CO_2, or NOx in nonattainment areas for the respective pollutant; and lead (Pb) SIP and operating non-transitory NESHAP sources.	Bi-weekly			STATE	
3. Provide timely data to AFS on the status of sources to be inspected pursuant to the 1990, Revised Compliance Monitoring Strategy, including but not limited to: description and dates of inspections and tests, compliance status, enforcement actions, and information on pollutants emitted.	Ongoing			STATE	
4. Track compliance for sources on compliance schedules and report on compliance status through the AFS, meeting EPA guidelines for reporting content and frequency.	Bi-weekly			STATE	
C. Air Toxics Compliance:		0.0			
1. Using routine inspection techniques, implement compliance and enforcement programs for all nontransitory NESHAP sources, including vinyl chloride and benzene, and report compliance status in the AFS and address all violators.	Ongoing			STATE	
D. Early Voluntary Air Toxics Reductions:		0.0			
1. Implement the Early Voluntary Air Toxics Reductions Program by reviewing and approving enforceable commitments.	As needed			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
E. SO2/Acid Rain:		0.0			
1. Assist in coordination of Federal and State Title IV acid rain permit and implementation activities.	Ongoing			STATE	
F. Federal Facilities Compliance:		0.0			
1. Implement a Federal Facilities Compliance Program, pursuant to the EPA Federal Facilities Compliance Strategy.	Ongoing			STATE	
G. Inspector Training:		0.2			
1. Conduct EPA Method 9 Visible Emission Observers Certification Program, which includes routinely scheduled "smoke schools" and at least one annual classroom session on EPA Method 9. Maintain smoke generator equipment pursuant to EPA Method 9.	Ongoing			STATE	
2. Provide necessary resources to allow attendance of air inspectors at EPA-sponsored inspector training courses and workshops conducted in Region VIII and elsewhere, as necessary to maintain a qualified inspector force.	Ongoing			STATE	
H. State Enforcement and EPA Oversight:		1.7			Resource limitations may prevent some enforcement cases from meeting
1. Identify to EPA all violators subject to the State/EPA Enforcement Agreement, including Significant Violators	Monthly			STATE	
2. Take appropriate action to resolve violations, in accordance with the Enforcement Agreement.	Ongoing			STATE	T & A Guidance
3. Submit inspection reports to EPA within 30 days of inspection date.	Ongoing			STATE	Covered in A. above.
4. Submit copies to EPA of all enforcement actions (NOVs, Orders, Settlements, Referrals to AGO) to EPA for all Class A, NSPS, and NESHAP sources upon issuance.	Ongoing			STATE	
5. Provide data to AFS for all inspections and enforcement actions, in accordance with item B.3. above.	Bi-weekly			STATE	
6. EPA will perform overview inspections on 3% to 7% (minimum of 2%) of the State's universe of operating Class A stationary sources.	9/30/92			EPA	
7. The State and EPA will strictly adhere to the provision of the State/EPA Enforcement Agreement and timely and appropriate guidance.	Ongoing			STATE/EPA	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
8. Revise enforcement agreement pursuant to new EPA significant violator and timely appropriate guidance.				STATE/EPA	
9. Develop penalty policy.				STATE	
I. CEM Compliance:		0.8			
1. Observe and review Performance Specification Tests for continuous emission monitors (CEMs), including any concurrent stack tests.	Ongoing			STATE	
2. Review quarterly compliance reports and excess emission reports from CEM sources and take appropriate enforcement action for non-compliers, in accordance with the State/EPA Enforcement Agreement.	Quarterly			STATE	
3. Conduct field audits of CEMs on a regular basis, to assure the accuracy of the data reported.	Ongoing			STATE	AQB would define regular basis to be as resources allow.
4. Provide adequate resources to allow attendance by State staff at EPA-sponsored CEM training courses and workshops, as necessary to ensure staff are qualified to carry out CEM activities.	Ongoing			STATE	
5. Coordinate with EPA to ensure that EPA receives a copy of EERs, or EER summaries, from CEM sources which are required to be reported into EPA's STARS tracking system.	Quarterly			STATE	
6. Coordinate with EPA to accomplish delegation to the State of CEM data base management in AIRS.	9/30/92			STATE	
J. Stack Testing Oversight:		0.3			
1. Develop and implement a Stack Test Observation Program and maintain a qualified staff of trained stack test observers.	Ongoing			STATE	AQB will begin developing a team of stack test observers. Resource limits will prevent all objectives from being met.
2. Review stack test protocols and stack test reports for completeness, representativeness and compliance.	Ongoing			STATE	
K. SIP Contingency Plans and Revisions:					
1. Submit to EPA an annual report meeting the requirements of 40 CFR Parts 51.325 and 326.	9/30/91			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
L. New Source Review:		2.3			
1. Operate a New Source Review Permit Program in accordance with Prevention of Significant Deterioration (PSD) and nonattainment area permitting requirements.	Ongoing			STATE	
2. Submit a copy to EPA of the public notice, the technical review and analysis, and the proposed permit or permit conditions at the start of the public comment period for the following sources: a. PSD permits for new and modified sources b. Permits for Class A1 new sources c. Permits for Class A1 modified sources (if permitting involves contemporaneous emission decreases) d. Permits for sources avoiding PSD requirements or major non-attainment requirements, by permit restrictions to reduce their potential emissions (synthetic minor) e. Permits for major new and major modified sources in non-attainment areas The technical review and analysis must include an emission inventory, emission calculations, and a description of the source. A top-down BACT analysis and modeling analysis must be included for the PSD permits.	Ongoing			STATE	
3. Copies of the final permits, for the above sources, will be submitted to EPA, when issued. All EPA comments, received during the public comment period, shall be incorporated into the final permit or a written response to EPA will be prepared, stating why the recommendations were rejected.	Ongoing			STATE	
4. Submit to the Federal Land Manager, a copy of all PSD permit applications and supplemental information, when received, for sources located within 100 kilometers of a Class I area.	Ongoing			STATE	
5. Implement a program for tracking NOx increment consuming emissions and to insure NOx increments are being protected.	Ongoing			STATE	
6. Submit RACT, BACT and LAER determinations to the EPA Clearinghouse, pursuant to CAA amendments of 1990, Section 108(h).	Ongoing			STATE	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
ASBESTOS (0.4)		0.4	$ 18,825		
1. Review revised Asbestos NESHAP Regulation, promulgated 11-20-90, and decide on approach for adoption before 9/30/92.	9/30/92			STATE	Occupational Health Bureau will assume NESHAP asbestos activities during FY 92.
2. Inspect each major asbestos contractor at least once, and 50% of the minor contractors, per year. Major is defined as a contractor with 3 or more notifications. (This is not to be based on number of non-NESHAP notifications received.)	9/30/92			STATE	
3. Report complete information to the National Asbestos Registry System through ACTS. Perform appropriate QA/QC on all ACTS data submitted to EPA.	Quarterly			STATE	
4. Submit to EPA copies of all inspection reports and checklists. List all inspections and identify new significant violators. Submit copies of waste shipment discrepancy and exception reports if received.	Monthly			STATE	
5. Take appropriate enforcement actions for all asbestos significant violators in accordance with the State/EPA Enforcement Agreement. Submit copies of enforcement actions to EPA upon issuance. Update EPA on enforcement status of all violators upon request. Implement asbestos T&A guidelines as available.	Ongoing			STATE	Limited enforcement activity.
6. Initiate implementation of the revised Asbestos NESHAP Strategy emphasizing outreach, training, enforcement, and cross-program components.	Ongoing			STATE	No resources.
7. Develop a state asbestos enforcement strategy, including a schedule or timeline for enforcement actions and an asbestos specific penalty policy.	12/31/91			STATE	No resources.
8. Provide inspection technique, safety training, and medical monitoring for asbestos inspectors.	Ongoing			STATE/EPA	
9. Attend EPA/State asbestos work group meeting.	As needed			STATE/EPA	

FY 1992
AIR QUALITY MEDIA WORKPLAN

ACTIVITY/OUTPUT	DUE DATE	STATE FTE	TOTAL $	AGENCY	COMMENTS
PROGRAM ADMINISTRATION		6.6	$310,613		
A. Personnel Management				STATE	
B. Program Administration				STATE	
C. Legislative Liaison				STATE	
D. EPA Liaison				STATE	
E. County Program Oversight				STATE	
F. Training				STATE/EPA	
G. Program Resource Improvement Strategy	Ongoing			STATE/EPA	
H. Legal Support				STATE	
LOCAL AIR POLLUTION AGENCY GRANTS			$190,331	STATE	
TOTALS		27.7	$1,493,966		State $ listed do not constitute new level of effort. Additional permit fee authority is available after 10/91.

*Legislative authority to spend federal funds is limited to $968,704. A budget amendment has been submitted to increase this spending authority by $127,600 to a total authority of $1,096,304.

[State $	=	$ 356,837]
[Federal funds potentially available	=	$1,137,129]
[Total	=	$1,493,966]

COOPERATIVE ENFORCEMENT AGREEMENTS

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of Federal and State environmental agencies, and is an essential prerequisite to realizing the benefits of our regulatory programs. While State and local governments have primary responsibility for compliance and enforcement actions within the State, EPA retains responsibility for ensuring fair and effective enforcement of Federal requirements, and credible national deterrence to non-compliance. An effective State/Federal partnership is critical to accomplishing these goals, particularly given limited State and Federal resources.

The inclusion of the enforcement agreements as appendages cover all aspects of the State's and EPA's compliance and enforcement programs including those activities involving Federal facilities within Montana. These agreements do not duplicate national program guidance. National policy will apply where not clearly specified elsewhere.

Appendix A

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

National Pollutant Discharge Elimination System

PURPOSE:

The purpose of this Agreement is to provide for routine coordination and consultation on State and EPA enforcement activities. This Agreement serves to clearly define the State/Federal partnership in enforcement as described in the following documents:

1. Guidance for the FY 1989 State/EPA Enforcement Agreements Process.

2. Policy Framework on State/EPA Enforcement Agreements: Draft Addendum on Oversight of State Civil Penalties dated August 25, 1986.

3. The FY 1987 National Guidance for Oversight of NPDES Programs dated April 18, 1986.

SCOPE:

This Agreement establishes the routine consultation and coordination of State/EPA enforcement activities and defines the basic oversight criteria for timely and appropriate enforcement actions.

BACKGROUND:

In accordance with the Federal NPDES regulations, the State reviews all appropriate compliance information for all permittees and prepares and submits to EPA the Quarterly Noncompliance Report (QNCR). This document serves as one of the basic mechanisms for coordinating and overseeing activities involving major permittees. As an additional oversight procedure, EPA

Region VIII reviews selected compliance information (primarily inspection reports and selected DMR's for major facilities) and where appropriate, may issue an NOV to the State where significant noncompliance (SNC) is found. State response to EPA issued NOV's is to be reported to EPA in writing within 30 days.

NONCOMPLIANCE CONSULTATION AND COORDINATION:

EPA and State compliance staff consult and coordinate related enforcement activities on a day-to-day basis in a cooperative and professional manner to ensure the most efficient and effective State and Federal compliance actions.

Specifically, at a minimum, EPA and the State will review each month the status of permittees on the Quarterly Noncompliance Report (QNCR), any outstanding Notices of Violation (NOV), and all violations by all permittees. Participants are the State permits and compliance staff, as appropriate, and the Montana EPA office permits and compliance engineer.

Prior to the meeting, the State develops a summary of all violations and any supplementary information. During the meeting, the most recent QNCR is reviewed to determine if any permittee on the QNCR has continuing violations. A written record is maintained to document all State and/or EPA actions taken with regard to all violations, significant or not. A full range of enforcement actions may be taken, including joint issuances of Notices of Violations (NOVs).

At the first monthly meeting following submittal of QNCR, the State and EPA discuss any EPA comments on the State's preceding QNCR. EPA's comments may include: the permittee in question, the State action in question, the recommended action to be taken by the State and/or EPA, and the State's average response time and average compliance rate.

The common goal of the State and EPA is to cause permittees to achieve prompt and sustained compliance. If full agreement on appropriate State and/or EPA actions cannot be reached, the discussion will be escalated to the next administrative level by both parties.

REPORTING:

The State submits QNCR's to EPA by August 31, November 30, February 28, and May 31 of each year in accordance with 40 CFR 123.45. Also the State submits a listing of all formal enforcement actions taken during the quarter within one week after the end of the quarter. These reports cover the July-September, October-December, January-March and April-June quarters, respectively. State formal enforcement actions are defined as: administrative orders issued; civil referrals to the State Attorney General (submittal of Violation Report Forms (VRF's) to Legal); civil complaint filings in State court;

consent agreements filed in State court (Consent Decree, Judgment and Order settlement); and criminal referrals to the State Attorney General. The State maintains a log of all penalties assessed, suspended and collected.

CIVIL PENALTIES:

The State has developed a civil penalty policy. The policy states under what circumstances the State will seek civil penalties. The State's policy considers at minimum the economic benefit of noncompliance, the seriousness of the violations, the number of violations, the environmental harm done, and the recalcitrance of the violator. The policy includes a worksheet on which the penalty may be calculated.

STATE CONSENT AGREEMENTS AND JUDICIAL REFERRALS:

The State will continue to consult and coordinate closely with EPA on all consent agreement negotiations and judicial referral preparations. Specifically, the State and EPA will consult regarding the contents and terms of consent agreements before signing and judicial referrals before filing. Included in the discussions will be a summary of the violations and the penalty calculations used to determine the proposed penalty.

EPA ENFORCEMENT ACTIONS:

EPA will consult and coordinate closely with the State on all direct enforcement actions, including imposition of administrative penalties, it considers in the State. When EPA takes the lead on a case and decides that an administrative penalty will be sought, EPA will consult by telephone with the State concerning its intended course of action. EPA will also provide the State a preliminary draft of the proposed penalty order for comment, and a copy of the proposed penalty order which is sent to the discharger. EPA may send a Notice of Violation (NOV) to the State where significant noncompliance has occurred and the State has not, in the opinion of EPA, responded appropriately. EPA will consider Federal enforcement action when any of the following situations exist: the State requests EPA direct enforcement; a violation of an EPA administrative order or consent decree occurs; a legal precedent under national environmental laws is present; when necessary to ensure the viability of a national initiative (example: NMP); unresolved interstate issues are present; the State is not operating a portion of the NPDES permit program in lieu of EPA (example: pretreatment); in the judgment of EPA the State has not addressed all appropriate violations or responded to an EPA issued NOV, or has not initiated a timely and appropriate enforcement action, or has obtained a penalty or sanction which does not meet EPA's standards under the circumstances of the violations. All enforcement requirements upon the State as a consequence of this Agreement shall be upon EPA when EPA seeks to take enforcement actions in Montana.

ATTORNEY GENERAL INVOLVEMENT:

It will be the responsibility of the State Environmental Agency to keep the State Attorney General informed of planned EPA direct enforcement actions.

FEDERAL FACILITIES:

Federal facilities will be treated under this agreement in the same manner as non-federal permittees. EPA will be notified of State enforcement actions on Federal facilities. In the spring of each year the Federal Facilities Coordinator will send to the State the A-106 listing of Federal facility pollution control projects for review and comment. The State will be asked to identify missing necessary water pollution control projects.

PRETREATMENT:

Until the delegation of the pretreatment program authority to the State occurs, EPA will remain primarily responsible for enforcement activities regarding pretreatment. The State is encouraged to conduct pretreatment inspections and to provide EPA any information it finds regarding pretreatment violations. Once delegation is granted the State shall be responsible for pretreatment actions to the same degree and extent as any other NPDES violation.

OVERSIGHT CRITERIA:

To implement the above-cited EPA policy and guidance, the following enforcement response guidelines will be followed:

A. Timeliness

1. The State will evaluate instances of noncompliance by major permittees and P.L. 92-500 minor permittees within 30 days from the identification of a violation; determine the appropriate response, and document any action taken/not taken (including the technical reason).

2. In the case of major permittees, the State is expected to have already initiated an enforcement action to achieve compliance by the time the permittee appears on the QNCR.

3. Prior to a permittee appearing on the subsequent QNCR for the same violation, the permittee should either be in compliance or the State should have taken formal enforcement action to achieve final compliance.

B. Appropriateness

1. Formal enforcement action should be the response to significant noncompliance listed on a QNCR. Formal enforcement actions are defined as those which (a) clearly define the violation(s) identified, (b) require corrective actions by a specified date, (c) describe enforcement consequences should the violations not be corrected as required, and (d) can be independently enforced without proving the original violation.

2. A judicial referral should be utilized where:

   a. An administrative order has been violated.
   b. The violation must be stopped immediately.
   c. Long-term compliance must be compelled.
   d. A substantial economic benefit has been obtained from acts of noncompliance.
   e. A deterrent is needed to prevent others from similarly violating the law.

3. A monetary penalty should be sought in each judicial referral or consent agreement (regardless of the facts).

4. The size of the penalty to be obtained shall be reviewed in light of and commensurate with one calculated using EPA's Clean Water Act Civil Penalty Policy.

APPENDIX B
Enforcement Agreement
between
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII
and
MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
for the
Public Water System Supervision Program

I. PURPOSE

The purpose of this agreement is to detail the State and EPA activities which will be conducted to increase the compliance level of Montana Public Water Systems (PWS's) to achieve State and Federal drinking water program goals. Major objectives include:

A. ensuring adequate State reporting to allow effective oversight,

B. establishment of clear oversight criteria, such as timely and appropriate enforcement activities, for EPA to be able to evaluate State compliance and enforcement program performance, and

C. establishment of clear criteria for direct Federal Enforcement with procedures for advance consultation and notification.

II. DEFINITION OF TERMS

Appropriate: the following enforcement responses will be considered appropriate actions against a significant non-complier (SNC):

A. the issuance of a bilateral, written compliance agreement signed by both parties, which includes a compliance schedule,

B. the issuance of a State or final Federal Administrative Order, or Compliance Order,

C. the referral of a civil judicial case to the State Attorney General, or Department of Justice, or

D. the filing of a criminal judicial case in an appropriate State or U.S. District Court.

Timely: in order for an appropriate action against a SNC to be considered timely, it must have been taken within six months of the discovery of that SNC. This definition applies to all

microbiological, turbidity, chemical, and radiological SNCs. (States have two months to determine if a violator is an SNC, therefore, timely responses must actually be taken within eight months after the PWS becomes an SNC).

Significant Noncomplier (SNC): the definition of an SNC can be found in Michael B. Cook's memorandum dated May 22, 1990, entitled Revised Definition of Significant Noncomplier and the Model for Escalating Responses to Violations for the PWSS Program. The definition applies to all community and nontransient noncommunity water systems. A system is an SNC from the time it meets one of the criteria in the definition of an SNC, until an appropriate enforcement action is taken against it or until it returns to compliance. The SNC definition has been revised to cover the **Surface Water Treatment Rule** and the **Total Coliform Rule**. It will be revised to cover the **Phase II** and **Lead/Copper** rules. States will be provided with these definitions as soon as they become available.

Returns to Compliance (RTC): for SNCs of a **microbiological (MCL and/or M/R)**, **turbidity (MCL and/or M/R)**, or **TTHM (M/R)** requirement, RTC is having no months of violation (either MCL or M/R), of the same contaminant which caused the system to become an SNC, during the six months period after the system was identified as an SNC. For SNCs of a **chemical or radiological analytical level**, RTC is conducting analyses that demonstrate that the system no longer exceeds the MCL. RTC for SNCs of a **chemical (other than TTHM) or radiological monitoring requirement** is conducting the required monitoring and determining that the system does not exceed the MCL.

Exception: An exception is a system which was: a) a SNC which has not returned to compliance or was not addressed timely and/or appropriately, b) a SNC previously addressed appropriately which fails by more than 60 days to meet a milestone of a compliance schedule, or c) a SNC system appropriately addressed by referring a civil or criminal case to the State AG, but which has not been filed within 120 days of the referral. If a system becomes an exception, it remains both an SNC and an exception until it is appropriately addressed or returns to compliance.

III. STATE RESPONSIBILITIES

III, 1. State Compliance Strategy

Several years ago, EPA developed a Model for Escalating Responses to Violations for the PWSS Program. This document clarifies EPA Office of Ground Water and Drinking Water's expectations for State and Federal actions in regards to prioritization of violators and taking the appropriate enforcement action against them. While the Region VIII Implementation and Enforcement Section does not use the model to determine its enforcement actions in primacy States, EPA will be using the new SNC definition to prioritize actions. Therefore, States which

follow a compliance strategy similar to the national model will be focusing on those PWS to which EPA pays the greatest attention.

Montana's Compliance Strategy is being reviewed in light of EPA's model. The State, as resources allow, will evaluate the benefits of taking formal actions against Tier 2 violators before they become SNC's (Tier 1 violators), and will consider such actions where appropriate.

III, 2. State Penalties

The 1991 State legislature passed legislation which will allow for Administrative and civil penalties for violations. The Administrative Rules are under development and will be in place by July 1992. The new legislation allows administrative penalties up to $500 for each day of violation, and for civil penalties of up to $10,000 for each day the system is in violation.

III, 3. Federal Facilities

Federal facilities will be treated under this agreement in the same manner as non-federal facilities, as per Section 1447 of the Safe Drinking Water Act (SDWA). EPA will be notified in advance of State enforcement action on Federal facilities. Once a year, the EPA Federal Facilities Coordinator will send to the State the Federal Agency Pollution Abatement five-year plan (OMB Circular A-106). The State and EPA will review this document to determine whether Federal PWS's are planning/budgeting for newly promulgated regulations so that compliance may be obtained within regulatory deadlines.

III, 4. Inspection/Sanitary Survey Policy

The State's policy on conducting inspections or sanitary surveys is as follows:

Surface water supplies will be surveyed annually;

Ground water supplies will be surveyed every three years;

Public water supplies with problems will be targeted for on-site review.

Contracts will again be developed with local health departments to conduct surveys of non-community supplies. Drinking Water Section staff will each be assigned to oversee several health departments and provide them with technical assistance and guidance.

Contracts may be developed with private consultants or with non-profit organizations to conduct sanitary surveys of smaller public water supplies.

During FY 92, emphasis will be placed on vulnerability assessments and on updating the State's inventory.

III, 5. Compliance Targets

FY 92 compliance targets for reduction in SNC's are broken down into one target for Bacteria/Turbidity and one for Chemical/Radiological. The initial number of SNCs is based upon an EPA-generated list for the compliance period 04/01/90 to 03/31/91. Montana commits to utilize all resources available to bring into compliance or appropriately address specific water systems on that list by 06/22/92.

Bacteria/Turbidity SNC's:

Number of systems on initial list: # 28
Number of those systems to be addressed by 06/22/92: # 27

Chemical Radiological SNC's:

Number of systems on initial list: # 1
Number of those systems to be addressed by 06/22/92: # 1

III, 6. Reporting of Data

The majority of data reported by the State is stored in the Federal Reporting Data System (FRDS). The system maintains State inventory, violations, enforcement actions, and variances and exemptions. The database is also the basis for the Public Water System Supervision (PWSS) program grant allocations. The State agrees to provide inventory, violation, enforcement, and variance and exemption updates to this system within 45 days of the end of each quarter.

The State will report quarterly all formal enforcement actions (including bilateral compliance agreements, AO's, civil and criminal cases which have been referred, filed, or concluded) into FRDS. The State will also report into FRDS (by means of a follow-up action enforcement code) any chemical/radiological violator which has returned to compliance.

The State shall report the status of all SNC's and exceptions, including previously addressed SNC's/exceptions which fail by more than 60 days to meet the conditions of any compliance schedule, or were addressed by a referral to the State AG and have not been filed within 120 days of the referral.

Every six months, the State shall report to EPA all previously unreported Unregulated Contaminant data as specified under NPDWR §1411.40.

The State shall modify all FRDS data reporting no later than 12/31/91 so that (a) all data is reported in the new Data

Transfer Format (DTF) and that (b) all Registration Required and Grant Eligible data is reported.

During the mid-year evaluation, EPA shall follow-up on the implementation of findings in the State's most recent data verification report.

IV. COMPLIANCE REVIEW AND EPA ENFORCEMENT

IV, 1. Quarterly Review of Violators

After State quarterly data has been received, EPA will generate a "USEPA SNC/Exceptions Tracking System" report. This report will list all Significant Noncompliers, including non-transient non-community water systems. Every quarter, the EPA project officer will send this report to the State program administrator. The report should be reviewed and discussed between the State and EPA within a few days. Although the report is not required to be filled out until eight months after the end of the compliance period covered by the report, the State shall advise EPA if it is not firmly committed to taking an appropriate action against any PWS's that are listed, so that the Agency may consider taking an action. It is EPA's intention that enforcement actions, by either the State or EPA, be taken as swiftly as possible once non-compliance of a PWS has been determined.

At the appropriate time (that is, eight months after the compliance period of the SNC/Exception Report) the State program administrator will advise the EPA project officer of the status of the PWS listed. The status will be one of the following: returned to compliance, bilateral compliance agreement, State final AO, Federal final AO, civil referral, criminal filing, deactivated, not a confirmed SNC, or remains unresolved.

IV, 2. EPA Enforcement Actions

EPA shall notify the State of all direct enforcement actions under consideration. After the quarterly review between the project officer and the program administrator, the project officer will pass a list of those SNC's that have not been appropriately addressed ('Remains Unresolved' heading on the SNC/Exception Report) to the PWS Implementation and Enforcement Section. That list may also contain non-SNC violators which, because of such factors as contaminant, population exposed, past violation history, etc., are considered potential candidates for enforcement.

A letter shall then be sent from the EPA's Drinking Water Branch Chief to the Director, Montana Water Quality Bureau. The letter shall inform the Director of those systems, if any, which EPA intends to pursue formal enforcement. The letter notifies the State of EPA's intent to issue a Notice of Violation (NOV) to each of those facilities, and initiates the process by which EPA

staff will collect the necessary data to issue an NOV. The State shall supply to EPA documentation of records/correspondence/-actions pertaining to water systems as requested.

If an NOV is issued, the State will have 30 days to finalize an appropriate enforcement action. Section 1414 of the Safe Drinking Water Act gives EPA the authority to issue administrative orders or to commence civil actions, and mandates EPA to take an action whenever the Administrator finds that a system does not comply with a primary regulation under Section 1412 of the Act.

Enforcement actions taken by the State against a PWS to which EPA has issued an NOV shall be reviewed by the Regional Office. The State may request the Agency to review the action prior to issuance by the State. The purpose of the EPA review is to determine, based on factors particular to each case, the appropriateness of any compliance schedule or other conditions that are part of the action. The EPA reserves the right to overfile based on schedules and conditions that have not been reviewed by the Agency and are determined to be inappropriate, the absence or inadequacy of penalties, or because of inaction on the part of the State if the water system fails to meet any of the specified schedules or conditions.

Systems in significant non-compliance, for which the State has taken no action or an inappropriate action, will remain the primary focus of Federal oversight and direct Federal action. However, non-compliance other than SNC's will also be considered for Federal oversight and action. There are also other circumstances under which EPA may take action, e.g., the State requests Federal action because it has exhausted formal enforcement avenues, there are national legal or program precedents involved, or the case involves violations of a Federal enforcement action.

When there is imminent and substantial endangerment to the health of persons (due to contamination which is present in, or is likely to enter a public water system or an underground source of drinking water), EPA has authority under Section 1431 of the SDWA to issue emergency administrative orders. Such orders can be issued against either a public water system or those causing sources of contamination to endanger the system. State and local authorities are expected to act to protect the health of such persons and take timely and appropriate enforcement. Should EPA issue an emergency AO, State authorities shall be notified prior to the issuance of the order.

IV, 3. Attorney General Involvement

It will be the responsibility of the State to insure that the State Attorney General is properly notified and consulted about planned Federal enforcement actions and/or enforcement initiatives on an ongoing basis.

V. LEAD BAN AND LEAD CONTAMINATION CONTROL ACT ACTIVITIES

The State will maintain records which demonstrate effective enforcement of the lead ban and shall provide this information to EPA no later than August 31, 1992. Failure to do this will result in the loss of up to 5 percent of the State's FY92 PWSS grant.

EPA shall provide LCCA guidance and updated lists of water coolers containing lead to the State for distribution to schools. The State shall provide technical assistance when so requested, collect analytical results, and provide LCCA data to EPA upon request.

APPENDIX C

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. Environmental Protection Agency

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Program

I. SCOPE

A. The purpose of this Agreement is to delineate and clarify the responsibilities of the EPA and the Montana Department of Health and Environmental Sciences (State or MDHES) in the implementation of all federally enforceable air pollution control requirements for stationary sources located in Montana. This will result in a Federal-State partnership to carry out the intent of the Clean Air Act. It is anticipated that this protocol will be modified and expanded in future years as necessary to reflect changes in State and national policies.

The MDHES Air Program is authorized by the Montana Clean Air Act, Sections 75-2-101 et seq, MCA (Act). Although the Act is also part of the Montana State Implementation Plan (SIP), the primary responsibility for enforcement of the Act rests with MDHES. Unless stated otherwise, MDHES will take the lead in addressing violations of air pollution regulations within its jurisdiction (except for non-delegated Federal standards). It is not intended that focusing on a limited group of violators for purposes of this Agreement will detract from the importance of other violators and the rights and responsibilities of the MDHES or EPA to do so. One intended benefit of this Agreement is the coordinated exercise of enforcement activity, thus maximizing the efficient use of the resources of both MDHES and EPA.

B. This Agreement applies to the following types of violations:

1. Class A SIP sources which are in or adjacent to (and impact) a nonattainment area, or a PM-10 Group I or II area, and which violate a standard limiting emissions of a pollutant for which the area is nonattainment;

2. NSPS violators (where delegated), sources operating in violation of Part C (PSD) or Part D (nonattainment areas) permit requirements;

3. Class A sources that are repeat violators;

4. Class A sources violating an MDHES or EPA enforcement order or consent order;

5. Class A Federal facility violators;

6. Stationary NESHAPS violators (where delegated).

C. The time lines and NOV provisions in Sections II and III of this Agreement do not apply to the following;

1. Those stationary NESHAPS violations or other emergency episodes requiring immediate action to minimize or eliminate public health impacts;

2. Sources constructing without a valid PSD or Part D permit where required, or in violation of such a permit, where options for obtaining relief will be foreclosed by allowing the source to continue to construct and, therefore, expedited action is essential;

In these situations, action by the State will be deemed timely if it will accomplish the objectives giving rise to the need for expedited action.

D. This Agreement is not applicable to those violations of Montana standards which are not federally enforceable (e.g., fluoride-in-forage, hydrogen sulfide, etc.).

E. Consistent with the partnership concept which underlies this Agreement, MDHES and EPA may mutually agree to amend the application of the terms of this Agreement to any given enforcement situation. In the absence of any such concurrence, the terms of this Agreement shall control.

F. This Agreement shall be effective upon execution, and shall remain in effect until a subsequent Cooperative Enforcement Agreement is signed. Section IV, relating to penalties, shall not be applicable to State enforcement actions where, as of the date of execution of this Agreement, a complaint has been filed initiating a judicial proceeding. As to penalties, those State enforcement actions in which a complaint has been filed initiating judicial proceedings as of the date of execution of this Agreement shall be governed by the terms of the previous Cooperative Enforcement Agreement.

II. TIME LINES FOR ENFORCEMENT ACTION

A. Time lines for enforcement action begin (day 0) 30 days after the date of the inspection or receipt of a source self-monitoring report which first identifies the violation, to provide sufficient time for an evaluation of the inspection or source report data to determine if a violation exists. If,

during this 30-day period, the State determines that a stack test or a sample analysis is required to determine or confirm the violation, day 0 will be the date of receipt of the stack test or sample analysis report. Except in unusual cases, the State will require that the stack test or sample analysis be completed within 90 days of the date requested, and that the stack test or sample analysis report be submitted within a reasonable time, not to exceed 60 days.

B. By day 45, the source shall be formally notified by the State of the violation and the need for remedial action. Such notification must be in writing. EPA shall be provided with a copy of such notification.

C. By day 60, if the source has not been notified of the violation, EPA may take one of the actions specified in Section III. Such action may occur only after consultation with the State.

D. At day 90, EPA will consult with the State on the progress to date of the enforcement matter. If EPA determines that the State will not meet the day 120 requirements of Subsection II, E, and, if in EPA's opinion, the significance of the source warrants EPA action at this juncture, EPA may decide to take one of the actions described in Section III. In such a case, EPA shall promptly notify MDHES in writing, setting forth in detail the factual basis for its decision. If EPA's decision to take action is a result of a request by the State, no such notification is required.

E. By day 120, the source shall either be:

1. in compliance;

2. subject to an enforceable MDHES administrative order;

3. referred to the MDHES legal unit or State Attorney General's office, as appropriate;

4. on an appeal of an MDHES administrative order to the Board of Health and Environmental Sciences or on related appeals of a Board order through the judicial system; or

5. subject to a proposed SIP revision which has been scheduled for a hearing and which EPA staff-level review shows may be approved.

For cases where penalties are required (see Section IV), penalties must be addressed as part of any State action if it is to be sufficient to forestall further EPA action.

F. If none of the actions specified in Subsection E, above, have occurred by day 120, EPA will discuss with the State the status of the State's actions and its expectations.

1. Class A SIP sources which are in or adjacent to (and impact) a nonattainment area, or a PM-10 Group I or Group II area, and which violate a standard limiting emissions of a pollutant for which the area is nonattainment.

2. Class A violators of Part D (nonattainment), PSD, or NSPS requirements which continue to operate after failure to demonstrate initial compliance by regulatory deadlines, or which begin construction or operation without the required permit(s).

3. sources which violate State or Federal administrative or judicial orders or schedules.

4. violators which the State and EPA determine are Class A repeat violators; and

5. NESHAPS violators (stationary and transitory).

C. It is recognized that there is a disparity between the statutory penalties which may be recovered by MDHES, and those which may be obtained by EPA. If at any point, EPA determines that this disparity will prevent the state from recovering a penalty which is ultimately sufficient to forestall EPA action, EPA shall promptly notify the State.

D. MDHES will transmit to EPA for comment copies of all final draft settlement agreements with sources covered by this Agreement.

V. CONSULTATION, DATA TRANSFER, AND PUBLICITY

A. EPA and the MDHES will conduct at least monthly consultations to discuss compliance efforts. During these discussions, information exchange relative to obtaining compliance and penalties will occur. This exchange will include, at a minimum, the following items:

1. MDHES will identify any new violators subject to this Agreement;

2. MDHES will identify sources notified of noncompliance during the month consistent with Subsection II, B;

3. MDHES will identify violators which the State has taken action against consistent with Subsection II, E, including penalties where required by Section IV;

4. MDHES will discuss the status of other pending enforcement actions if requested by EPA, including status of cases referred to the Legal Unit or State Attorney General's Office;

5. EPA will identify sources for which it has completed action and provide the status of other sources where action is pending or in progress;

6. EPA will identify any source it found in violation and confer with the MDHES in accordance with Subsection III, C.

B. AIRS will be updated by the State and/or EPA on a monthly basis, as specified in the SEA or Air Quality media work plan, as appropriate.

C. Inspection results other than those affected by the above will be provided in accordance with current practices and EPA accountability system requirements.

D. EPA and the State will share inspection results and monitoring reports for use in enforcement proceedings to the extent practicable. State personnel should be encouraged to provide evidence, including testimony, for Federal proceedings. Federal personnel should similarly support State enforcement proceedings.

E. EPA and the State will share information relative to publicizing enforcement actions. Within 30 days after the filing or resolution of any enforcement action, the lead agency shall issue a press release (or similar publicity tool) describing the filing or resolution, as a deterrent to future noncompliance by the regulated industry.

Appendix D

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Hazardous Waste Program

I. INTRODUCTION

This Agreement defines the relationship between the Montana Department of Health and Environmental Sciences (MDHES) and the U. S. Environmental Protection Agency (EPA) Region VIII, relative to enforcement of hazardous waste requirements in Montana and may be referred to as the hazardous waste program "Enforcement Agreement".

One of the goals of both the Resource Conservation and Recovery Act (RCRA) and the Montana Hazardous Waste Act (MHWA) is to protect human health and the environment. The EPA and DHES recognize that for this goal to be fully met, a high level of compliance with applicable standards must be maintained within the regulated hazardous waste community. To do this requires the establishment of a credible enforcement presence by the State of Montana and EPA.

DHES has primary responsibility for the administration and enforcement of MHWA, administrative rules implementing MHWA, and policy, as recognized by EPA approval and formal authorization of the Montana hazardous waste program. EPA will act in an overview capacity relative to enforcement under the authorized program, exercising its own enforcement authority only where DHES has requested EPA involvement or when DHES's enforcement response is determined by EPA to be inappropriate or untimely. EPA retains the primary responsibility to enforce standards under the Hazardous and Solid Waste Amendments of 1984 (HSWA) until such time as such HSWA standards are approved as revisions to the Montana program under 40 CFR 271.21.

Nothing in this Agreement shall be construed to constitute a valid defense by regulated parties in violation of any Montana or Federal environmental statute, regulation, or permit, or order.

II. DHES ENFORCEMENT

DHES agrees to take timely and appropriate enforcement action against all persons in violation of MHWA, hazardous waste management rule implementing MHWA, permit conditions and all other program requirements, including violations detcted by DHES or EPA inspections. DHES will maintain procedures for receiving and considering information about violations submitted by the public and will provide written response to all complaints duly submitted by the public.

DHES will refer to EPA suspected violations which it notes through inspection or other means for hazardous waste activities within Indian reservations, violations which are primarily interstate in nature, violations of HSWA requirements not yet included in the authorized Montana program or other violations for which an EPA enforcement response is appropriate.

DHES will deem the time-frame used by EPA in its definition of "timely and appropriate" to be general goals to strive for, for good program performance and as guidelines that EPA and DHES should use to review progress in individual cases. It is presumed that if such goals are not met, EPA may take direct enforcement action. It is mutually understood that judgment on what is a reasonable timetable for action must ultimately be case specific. Factors, for example, of type of violation, complex negotiation, investigation, testing, production and analysis of evidence and unique questions of law requiring additional time for case analysis shall be deemed to impact and possibly alter EPA established timetables. Emergency enforcement actions by EPA or DHES, shall likely be taken in shorter time-frames than the established time tables.

It is acknowledged that the definition of "appropriate" shall serve as a guideline and as a common goal for EPA and DHES. Insofar as choice of response by DHES to a violation, permit revocation or cleanup orders shall be deemed acceptable as possible response actions to violations by all classes of violators when taken in a timely manner. The EPA and DHES will seek to reach an understanding on DHES's penalty rationale in accordance with the FY 1990 Montana/EPA Agreement schedule, with maximum flexibility allowed to the State. It shall be understood that there are several types of enforcement responses which may be appropriate in attaining a desired compliance result. Finally, where insufficiency of resources is cited by DHES a reason for delayed response action to a violation, EPA shall work with DHES to identify ways in which EPA can help to make up the

deficiency in resources, but the insufficiency of resources shall not preclude EPA from taking direct enforcement action.

III. DIRECT EPA ENFORCEMENT

EPA may, pursuant to RCRA Section 3008(a)(2), take enforcement action against any person it has cuase to believe to be in violation of RCRA, any applicable State hazardous waste administrative rule, or any permit condition issued by either DHES or EPA, after giving notice to the DHES director in writing of EPA's intent. (Notice of EPA's intent will normally be provided first to the Solid & Hazardous Waste Bureau). Where EPA intends to take an enforcement action for a violation of a requirement of the authorized Montana program, DHES will be provided at least thirty (30) days advance written notice of such intent. The notice shall specify why EPA thinks that any action taken or proposed by DHES is inappropriate. If DHES disagrees with EPA's determination that its action is inappropriate, it may discuss this with EPA during the thirty (30) day period discussed above. If, at the end of the thirty (30) day period no agreement has been reached as to what constitutes an appropriate enforcement action and/or DHES has not initiated an appropriate enforcement action, EPA may then initiate enforcement action. EPA also reserves the right to issue orders and bring actions under RCRA Sections 3008(h) and 3013 (after notice to DHES as provided above) and Section 7003 (after verbal or written notice to DHES).

EPA agrees to take timely and appropriate enforcement action for violation for HSWA requirements which are not as yet part of the authorized DHES program, as well as for violations occurring within Indian reservations. EPA will respond as appropriate to DHES referrals of such violations. When EPA intends to take enforcement under its HSWA authority or for violations on an Indian reservation, and when such proposed enforcement is not the result of a DHES referral, EPA will provide DHES prior written notice (normally at least 7 days) as a courtesy to the authorized Montana program.

IV. CRITERIA FOR DIRECT EPA ENFORCEMENT

A. EPA is responsible for taking enforcement action under the following circumstances:

1. For violations of HSWA requirements which have not yet been made a part of the authorized Montana program.

2. For violations which occur within Indian reservations, according to the "Indian Policy Implementation Guidance Memorandum" dated July 18, 1984.

3. For violations which are interstate in nature or will set a national precedent and for which DHES and EPA agree that a DHES enforcement action could not be as effective as enforcement by EPA.

B. EPA may take enforcement action under the following circumstances:

1. If EPA determines that DHES enforcement action is not timely and appropriate, and after the notice period specified above.

2. When requested in writing by DHES.

3. When an EPA order or consent decree has not been complied with by the date specified in the order or decree.

4. When EPA has determined that an imminent and substantial endangerment to human health or the environment exists, and after giving verbal or written notice to DHES.

V. DEFINITIONS FOR TIMELY AND APPROPRITATE ENFORCEMENT

A. Violation Definitions

The RCRA Enforcement Response Policy classifies individual facility violations into one of two categories.

1. Class I Violation

Deviations from regulations, or provisions of compliance orders, consent agreements, consent decrees, or permit conditions which could result in a failure to:

a. Assure that hazardous waste is destined for and delivered to authorized treatment, storage, or disposal facilities (TSDFs); or

b. Prevent releases of hazardous waste or constituents, both during the active and any applicable post-closure periods of the facility operation where appropriate; or

c. Assure early detection of such releases; or

d. Perform emergency clean-up operation or other corrective action for releases.

2. Class II Violation

Any violation of a RCRA requirement that does not meet the criteria listed above for Class I violations.

Class II violations are defined in the negative; i.e., they include all violations that are not considered Class I, and therefore, are those violations which do not involve deviations from requirements which could result in failure to: 1) assure that wastes are destined for only atuhorized TSDFs, 2) prevent releases, 3) assure detection or 4) perform corrective action for such releases.

B. Violator Definitions and Enforcement Responses

A RCRA handler is classified as a violator based upon the nature of his or her violation(s) along with a number of other factors (e.g., compliance history, previous recalcitrant behavior, etc.). The Enforcement Response Policy establishes three categories of violators - High Priority, Medium Priority, and Low Priority - and define timely and appropriate enforcement response.

1. High Priority Violator

   a. Definition: A High Priority Violator is a handler who:

      - o Has caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous constituents; or
      - o Is a chronic or recalcitrant violator (This may include some handlers who are regularly found to have many Class I or Class II violations.); or
      - o Deviates from terms of a permit, order or decree by not meeting the requirements in a timely manner and/or by failing to perform work as required by terms of permits, orders, or decrees; or
      - o Substantially deviates from RCRA statutory or regulatory requirements.

   b. Appropriate Response - High Priority Violators

      The response timeframes allow 45 days from the day an inspection is completed to identify or "discover" the violations. Once violation discovery is made, it is expected that, for HPVs, within 90 days a formal administrative enforcement action will be taken, or a judicial action will be taken within 150 days.

2. Medium Priority Violator

   a. Definition: A Medium Priority Violator is a handler with one or more Class I violations who does not meet the criteria for a High Priority Violator. Handlers with only Class II may also be Medium Priority Violators when the compliance official believes an administrative order is the appropriate response to a facility with only Class II violations.

b. Appropriate Response - Medium Priority Violators

The appropriate response to the Medium Priority Violator is either the issuance of an administrative order or a less formal response which results in compliance within 90 days of violation discovery. If the decision is made to issue an order, the order should be issued within 120 days of violation discovery.

Where there is reason to believe a Notice of Violation (NOV) or Warning Letter (WL) will bring about a timely return-to-compliance, this less formal action may be used in response to Medium Priority Violators. If the initial NOV or WL does not result in final compliance or a compliance schedule incorporated in an enforceable order within 90 days of violation discovery, a decision must be made to escalate. Escalation entails either development of a judicial case or development and issuance of an administrative order. For generators with no violations of land disposal restriction requirements, up to 120 days may be allowed to return the facility to compliance before escalation is required.If an administrative order is chosen as the escalated response, the State has 60 days to develop and issue the order. If a judicial action is selected, the State has 150 days to file the case.

3. Low Priority Violator

a. Definition: A handler who has only Class II violations who is not a Medium or High Priority Violator.

b. Appropriate Response - Low Priority Violators

A Low Priority Violator will normally receive an NOV or Warning Letter as the initial response within 60 days of violation discovery. If this response does not result in expeditious compliance, normally within 30-60 days of issuance, a decision will be made whether to escalate to a more formal enforcement response (e.g., administrative order).

4. Definition of "Violation Discovery"

A violation is discovered as of the date when the case development staff determines through review of the inspection report correspondence and/or data that a violation has occurred. The time allowed for discovery from the date of inspection or record review is 45 days. Where there are more complicated situations, for example, where chemical analysis of samples is required, the timeframe may be greater.

VI. EPA OVERSIGHT OF DHES ENFORCEMENT

The effectiveness of DHES's enforcement activities will be evaluated in EPA's general program overview. The enforcement performance of the Montana program will be evaluated on the basis of the following documents, current copies of which will be provided to DHES by EPA as revisions may occur:

1. DHES authorization application and agreements, as amended.

2. Compliance enforcement criteria as contained in the "National Criteria for Quality Hazardous Waste Management Program under RCRA", most current revision. (Exception: Timelines contained in that document are superseded by the timelines in V above.)

3. The "Hazardous Waste Program Oversight Plan for Montana" (most current version).

4. The annual Montana/EPA Agreement as written to reflect the most current RCRA Implementation Plan.

VII. FEDERAL FACILITIES

If EPA responds to violations at Federal facilities, such enforcement shall be in accordance with Agency policy entitled "Federal Facilities Compliance Program--Resolution of Compliance Problems at Federal Facilities". Nothing in this Agreement shall preclude DHES from responding to violations at Federal facilities as provided for under MHWA and RCRA, consistent with the Authorization of the Montana program.

VIII. PUBLIC NOTIFICATION

DHES and EPA agree to issue press releases, where appropriate, on major enforcement actions taken by either agency. EPA generated press releases will acknowledge relevant DHES actions and accomplishments.

IX. EXPIRATION, TERMINATION AND REVISIONS

This Agreement shall continue in effect unless terminated or revised by written agreement, signed by the DHES Director and the Regional Administrator for EPA. This Agreement will be reviewed at least on an annual basis and may be updated, as appropriate.

Appendix E

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

Pesticides Program

RELATING TO the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect man and the environment from unreasonable hazards associated with pesticide production, sale and use.

I. Preamble

The Regional Administrator, U. S. Environmental Protection Agency Region VIII and the Director of the Department of Agriculture of the State of Montana hereby enter into this Cooperative Enforcement Agreement. This Agreement sets forth each agency's responsibility for the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect human health and the environment from the improper use and illegal sale of pesticides. Both agencies agree that cooperative pesticide enforcement is necessary and desirable to assure the efficient allocation of public funds, to minimize duplication of enforcement efforts and to more appropriately respond to pesticide emergencies, accidents, and unusual enforcement needs. This Agreement recognizes the primary enforcement responsibility of the Montana Department of Agriculture as defined in Section 26 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

II. Program Elements

The Montana Department of Agriculture agrees to conduct the following program elements:

A. Inspection Procedures, Sampling Procedures, and Sample Integrity.

All investigations, and all sampling will be conducted in accordance with the Montana Pesticide Act (Title 80, Chapter 8, MCA), and the Department's field and laboratory procedures manuals, utilizing inspection forms equivalent to those contained in the EPA

Pesticides Inspection Manual. Sample integrity will be maintained during collection, transport, storage, and analysis according to the quality assurance plans adopted by the Department and approved by EPA.

B. Cooperative Enforcement Action

EPA's enforcement role is shifting from a primary focus on performing inspections and taking enforcement actions to an emphasis on conducting reviews and evaluations and providing states with guidance and technical assistance in order to assure adequate performance of state compliance and enforcement programs.

The Congress of the United States has charged EPA to delegate responsibility for administering most environmental programs to the states as they demonstrate the desire and capability to assume primacy. The Congress, however, continues to hold EPA accountable for ensuring that its laws are carried out according to its intent.

The relationship between EPA and delegated states is intended to be a partnership. Both EPA and the states have continuing roles and responsibilities under delegated programs that are most effectively planned and executed together. States are better suited to address specific problems as they arise on a day-to-day basis, and EPA should strive to strengthen and assist state programs.

EPA also has a role as a partner to the state to serve as a back-up in enforcement areas by providing direct enforcement actions when needed. Region VIII will endeavor to assist state compliance and enforcement programs when requested. EPA may also take independent enforcement action in those cases where a state demonstrates it is not willing to establish a strong enforcement presence or is unable to do so due to a lack of necessary resources or requisite legal authority under the provisions of Section 26 and 27 of FIFRA.

It is agreed that when evidence collected reveals a possible violation of only the Montana Pesticides Act, only the Montana Department of Agriculture will pursue remedies for such violations as provided for in the Montana Pesticides Act. Where such evidence reveals a possible violation of both Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticides Act, the Montana Department of Agriculture shall have primary enforcement responsibility for pesticide use violation enforcement.

EPA will refer all pesticide use complaints to the Department for investigation. Pursuant to the Agency's final interpretive rule regarding Section 26 of FIFRA, cases deemed by EPA to be "significant cases" will be so designated and the disposition of such cases will be monitored by EPA. If within 30 days after receipt of a complaint referral from EPA, the State has not initiated an investigation, EPA may conduct its own investigation of the complaint. If, within thirty days after completion of the investigation of a complaint referral, the State has not commenced appropriate enforcement action, EPA may act upon the violation to the extent authorized by FIFRA as amended. At the option of the State, complaints or violations may be referred to EPA Region VIII Montana Office for action. In any pesticide investigation on Federal or Indian Lands where the State is not sure of its jurisdiction, the case will be referred to EPA, Region VIII Montana Office for action.

In those cases where there is a lack of agreement over who should take action, which cannot be resolved at the program level, the issue will be referred to the EPA Regional Administrator and the Director of the Department of Agriculture. In rare cases if clearly unacceptable performance by a state which show lack of good faith or capacity on the part of a state to correct problems, EPA is prepared to take back a delegated program. Taking back delegated responsibilities, however, must occur in a consistent and predictable manner, under pre-defined conditions and circumstances and in accordance with Section 27 of FIFRA.

Under Section 26 of FIFRA, EPA does not have authority to delegate primary enforcement responsibility for any area of enforcement except pesticide use. The Department has been delegated primacy for pesticide use enforcement. Pesticide use enforcement consists of ensuring compliance with the applicator certification requirements and with all labeling requirements. It is made up of two types of inspections: use inspections and misuse inspections. Misuse inspections are initiated in response to complaints, damage reports, or referrals when there is reason to believe that a violation has occurred whether or not it is actually proven. A use inspection may be initiated as an observation of an actual pesticide application or as an inspection following an application when there is no reason to believe that a violation is occurring.

Pesticide use enforcement for reporting and grant purposes, includes monitoring the use of pesticides under Section 5, 18, and 24c of FIFRA. The monitoring of experimental use permits (Section 5) and emergency

exemptions (Section 18) will involve inspecting users and distributors to ensure that the terms of the permit as well as the labeling are adhered to. EPA, however, has the final responsibility for ensuring that the terms of an emergency exemption are complied with and cannot, by the nature of the exemption process, delegate that responsibility.

Section 23 of FIFRA authorizes EPA to cooperate with states in the enforcement of FIFRA in areas other than use. The Department agrees to accept the responsibility of conducting non-use related inspections as described below and to take corrective enforcement action.

1. Certified Commercial Applicator License and Records Inspections

   These types of inspections are conducted at the certified commercial applicator's place of business or in accordance with Rule 4.10.207 of the Administrative Rules of Montana (ARM). The purposes of these inspections are to determine if the applicator is properly certified and licensed, is maintaining the required records, is making application only in the uses for which he is certified, and to determine if his records show that his applications have been in compliance with all applicable laws and regulations.

2. Restricted-Use Pesticide Dealer Records Inspections

   These types of inspections are conducted on-site at dealers who sell restricted-use pesticides or in accordance with Rule 4.10.504 ARM. The purposes of these inspections are to determine if the dealers are properly licensed and are maintaining the required records, and to review the dealers' records to determine if restricted-use pesticides are being sold only to certified applicators or other properly authorized persons.

3. Marketplace Inspections

   Marketplace inspections are inspections conducted at the retail or wholesale level for the purpose of determining product registration status, proper storage and display, any labeling violations, and any product decomposition. Marketplace inspections should be given a low level of priority unless product violations rates and compliance ratios show that such inspections will prevent significant harm.

   The Department will also monitor the disposition of chemicals which have been cancelled or suspended.

Pesticide disposal practices which are suspected violations of the Montana Hazardous Waste Act (Title 75, Chapter 10, part 4, MCA) will be addressed in accordance with the memorandum of understanding on Enforcement, Regulation and Management of Waste Pesticides and Containers (July 1983) between The Montana Department of Agriculture and The Department of Health and Environmental Sciences.

The responsibilities of the State under this subsection B will be reviewed on a semi-annual basis by EPA. EPA will maintain an "oversite" program whereby EPA personnel may accompany individual State inspectors on various types of inspections to coordinate and improve actual investigation procedures.

The Montana Department of Agriculture will notify the Pesticide Program Manager, EPA Region VIII Montana Office, within one week of the discovery of any suspected violations of the FIFRA which do not fall within the State's delegation. The Program Manager will confirm the existence of FIFRA violations and will maintain liaison with the State on the disposition of the case.

If requested by the State, EPA and the Department of Agriculture will establish a program to provide training for Montana's inspectors, chemists and legal staff in areas of pesticide sampling, analysis and enforcement consistent with EPA practices and procedures.

The results of all chemical analyses performed under this Agreement, and the quality and sufficiency of all other evidences gathered in the course of any of the inspectional or investigatory activities are reviewed by the Department of Agriculture according to the Departments field and laboratory quality assurance and procedures manuals. When this review reveals evidence of a violation of any provision of the Montana Pesticides Act or of the FIFRA, the Director shall accumulate, organize, and document all substantial and relevant evidence. Where EPA and the Montana Department of Agriculture determine that EPA shall be a party to an enforcement action based upon evidence collected, the Montana Department of Agriculture file shall be made available to the designated EPA attorney, Region VIII.

C. Reports

The Montana Department of Agriculture shall submit, all reports to the State program manager at EPA Region VIII Montana Office, according to the commitments and time

frames specified in the annual workplan in the STATE/EPA Agreement (SEA). EPA Region VIII Montana Office shall prepare and submit to the Department of Agriculture draft and final written evaluations of the Departments midyear and end of year performance. Such review by EPA will specifically consider:

1. The number of inspections in each inspectional category;

2. The future performance of any overdue commitments;

3. The actual accomplishments made by the Department;

4. Those areas in which performance and cooperation by the Department or the EPA may be improved.

Information acquired through the Department of Agriculture enforcement and technical programs is provided to the Montana Cooperative Extension Service through a cooperative agreement in order to update and improve the States pesticide applicator and dealer training courses. The Department of Agriculture is also encouraged to study the impacts of pesticides in the environment as they relate to enforcement matters.

III. General Conditions

It is mutually agreed that each agency shall:

A. Maintain a close working relationship and exchange information relative to the agencies' planned pesticide surveillance/enforcement activities;

B. Coordinate investigations and enforcement actions involving violations of both the FIFRA and the Montana Pesticides Act to avoid duplication of effort;

C. Perform its inspectional, analytical and case preparation activities in a manner designed to assure sample integrity, chain of custody, the use of standard methods of analysis, the sufficiency and adequacy of the evidence, and the violator's right to administrative due process;

D. Periodically meet with the other agency to evaluate the performance of each agency with regard to the procedural, planning or surveillance elements of this Agreement.

Nothing in this Cooperative Enforcement Agreement modifies other existing agreements except as specified, nor does it preclude entering into separate agreements which set forth procedures for special programs which can be handled more efficiently and expeditiously by such special agreement.

Nothing in the Cooperative Enforcement Agreement is binding on the State of Montana if sufficient funds are not provided by EPA to allow the State to carry out the agreed upon functions. Also, provided that the Department is carrying out the agreed upon functions in a manner satisfactory to EPA, the latter will not perform similar functions in the State.

Nothing in this Cooperative Enforcement Agreement is intended to usurp the authority of EPA to commence enforcement actions for alleged violations of the FIFRA. Similarly, nothing in this Agreement is intended to usurp the authority of the State of Montana to commence enforcement actions for alleged violations of the Montana Pesticides Act.

This Cooperative Enforcement Agreement, when accepted by both parties, shall continue in effect unless modified by the mutual written consent of both parties or terminated by either party upon a thirty (30) day advance written notice to the other.

ATTACHMENT E-1

Formal EPA Referrals Agreement
on
Pesticide Misuse Situations

1. Those significant use complaints received by EPA, from sources other than the Department of Agriculture, which meet the conditions set forth in this document may become referrals under Section 26 and 27 of FIFRA.

2. A formal referral must include at a minimum, the following information: name of complainant, address, telephone number, date of complaint, name of individual receiving complaint, details of the complaint, why the referral is significant, and how it meets these conditions set forth in this Agreement. EPA must also provide the names of other parties it has contacted concerning the complaint.

3. Specific conditions which determine if a complaint is significant may include all or one of the following items:

   a. Human Health - Death or any pesticide illness requiring medical treatment by a physician.

   b. Endangered Species - one or more endangered species; death, illness or significant exposure.

   c. Food and Water - Food or water, for immediate human consumption, is or is alleged to be or may become contaminated at or above established federal tolerance levels or other recognized standards.

   d. Economic Loss - (crop or domestic livestock) over $3,000 (estimate by complainant).

   e. Illegal use of a cancelled or suspended pesticide.

4. Complaints referred to the state by EPA which do not meet the above conditions are not formal referrals.

   Transmittal of complaints from EPA to the state shall be accomplished in the following manner:

   a. Initial contact shall be with the Field Services Bureau Chief, 444-2944, or if he is not available the following individuals may be contacted in the order presented:

      Administrator, Agricultural & Biological Sciences Division - 444-2944
      Technical Services Bureau Chief - A&BSD - 444-2944
      Deputy Director - 444-3144
      Director - 444-3144

b. The EPA primary contact will be the Montana Office Pesticides Program Manager - 449-5414. The EPA secondary contact will be the Director of the Montana Office, at 449-5432.